

Panaji, 06th January, 2022 (Pausa 16, 1943)

SERIES II No. 41

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

GOVERNMENT OF GOA

Department of Co-operation
Office of the Asst. Registrar of Co-operative
Societies

Notification

In exercise of the powers vested in me under Section 8 of Goa Co-operative Societies Act, 2001, "Mohideen's Hum Twin Tower Co-operative Housing Maintenance Society Ltd.," Nagamasjid, Curti, Ponda-Goa", Nagamasjid, Curti, Ponda-Goa is registered under Code Symbol No. RCSPZ2021220003.

Pankaj V. Marathe, Asstt. Registrar, Ponda Zone
(Co-operative Societies).

Curti, Ponda, 15th November, 2021.

Certificate of Registration

"Mohideen's Hum Twin Tower Co-operative Housing Maintenance Society Ltd., Nagamasjid, Curti, Ponda-Goa," Nagamasjid, Curti, Ponda-Goa has been registered on and it bears registration Code Symbol No. RCSPZ2021220003 and it is classified as "Co-operative Housing Society" under sub-classification No. 7-(d)-Co-operative Housing Maintenance Society in terms of Rule 8 of the Goa Co-operative Rules, 2003.

Pankaj V. Marathe, Asstt. Registrar, Ponda Zone
(Co-operative Societies).

Curti, Ponda, 15th November, 2021.

Department of Education, Art & Culture

Directorate of Education

Order

No. 1(2)-22-2005-SE/Part/604

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/11/15(4)/2014/4142 dated 02-11-2021, Government is pleased to promote the following Officers in the cadre of Deputy Education Officer/Principal, Government Higher Secondary Schools/Vocational Education Officer/Dy. Director, S.I.E. to the post of "Assistant Director of Education", Group 'A' Gazetted in Level-12 of Pay Matrix of VII Pay Commission+ 02 (two non compounded increment on initial pay on regular basis under this Directorate with immediate effect.

1. Shri Jose Francisco Gomes.
2. Shri Jaiwant Waman Naik.
3. Kum. Geraldina Luiza Mendes.

They shall give in writing their acceptance/refusal of above promotion to this Directorate within 10 days from the date of issue of this order, failing which, it will be treated as refusal of promotion by the promotee officer and such promotee officer shall be debarred for promotion for a period of one year from the date of refusal of promotion or till next vacancy arises whichever is later, without any further intimation.

They shall exercise option for fixation of pay in terms of F.R. 22(I) (a) (1) within one month from the date of issue of this order.

Consequent upon the above promotion, the posting on promotion is ordered as below:-

Sr. No.	Name of the Officer	Present place of posting	Place of posting on promotion
1.	Shri Jose Francisco Gomes	Principal, Government Multipurpose Higher Secondary School, Borda, Margao	Assistant Director of Education, Central Educational Zone, Panaji against vacant post.
2.	Shri Jaiwant Waman Naik	Vocational Education Officer of this Directorate	Assistant Director of Education, North Educational Zone, Mapusa against vacant post.
3.	Kum. Geraldina Luiza Mendes	Joint Secretary, Goa Board of Secondary and Higher Secondary Education, Porvorim-Goa	Assistant Director of Education, Adult Section of this Directorate thereby relieving Shri Manoj Sawaikar from additional charge.

Shri Jose Francisco Gomes, Assistant Director of Education, shall continue to hold the charge of Principal, Government Multipurpose Higher Secondary School, Borda, Margao until further orders.

Kum. Geraldina Luiza Mendes shall hold the additional charge of Joint Secretary, Goa Board of Secondary and Higher Secondary Education, Porvorim-Goa in addition to her own duties.

They shall report to the place of posting immediately.

This issues with the approval of Government vide U.O. No. 7917/F dated 01-12-2021.

By order and in the name of the Governor of Goa.

Nagaraj G. Honnekeri, Director & ex officio Joint Secretary (Education).

Porvorim, 27th December, 2021.

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Directorate of Technical Education
College Section

Order

No. 16/289/CAS/Degree/DTE/2012/3142

On the recommendations of the Departmental Promotion Committee constituted vide Government Order No. DTE/Estt/I-9-II/Pay – Fix/2009/4310 dated 10-10-2011 for implementing the Career Advancement Scheme (CAS) as per the recommendations of AICTE accepted by the Government vide order No. DTE/Estt/I-9-II/Pay Fixation/2009/273 dated 27-01-2011 and order No. 17/2/58/2010/Vol.VI/DTE/Part-III/194 dated 27-04-2021, approval of the Government is hereby conveyed to Grant Pay Level 14 (Pre-revised Academic Grade pay of Rs.10,000/- in the Pay Scale of Rs. 37,400 - 67,000) and re-designation as Professor from the date of grant of CAS, to the following Associate Professor of Goa College of Engineering, Farmagudi, Ponda-Goa.

Sr. No.	Name	Department	Date of CAS
1.	Nisha P. Naik	Associate Professor in Civil Engineering, Goa College of Engineering	06-04-2018.
2.	Nitesh B. Guinde	Associate Professor in Electr. & Tele Com. Engineering, Goa College of Engineering	18-8-2017.
3.	Mahesh Dhawalikar	Associate Professor in Mechanical Engineering, Goa College of Engineering	28-08-2017.
4.	Sumitra S. Tari Khandolkar	Associate Professor in Civil Engineering, Goa College of Engineering	12-04-2018.

With the placement of the faculty to the higher level of Pay, the respective posts, the above faculty are currently holding stands temporarily upgraded for the sole purpose of placement of the existing faculty to the higher level of Pay. These posts shall stand reverted to the original posts, level of Pay, once the faculty cease to occupy the upgraded posts.

The above employee may exercise an option if so desire within one month from the date of issue of the order for fixing his pay.

By order and in the name of the Governor of Goa.

Dr. *Vivek B. Kamat*, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 21st December, 2021.

Order

No. 16/289/CAS/Degree/DTE/2012/3145

On the recommendations of the Departmental Promotion Committee constituted vide Government Order No. DTE/Estt/I-9-II/Pay - Fix/2009/4310 dated 10-10-2011 for implementing the Career Advancement Scheme (CAS) as per the recommendations of AICTE accepted by the Government vide order No. DTE/Estt/I-9-II/Pay Fixation/2009/273 dated 27-01-2011 and order No. 17/2/58/2010/Vol.VI/DTE/Part III/194 dated 27-04-2021, approval of the Government is hereby conveyed to Grant Pay Level 11 (pre-revised Academic Grade Pay of Rs. 7000/- in the Pay Scale of Rs. 15,600 - 39,100), to the following Assistant Professors of Goa College of Pharmacy, Panaji, Goa.

Sr. No.	Name	Department	Date of CAS
1.	Nutan L. Naik	Asst. Prof. in Pharmaceutical Chemistry, Goa College of Pharmacy	25-02-2019.
2.	Rahul S. Chodankar	Asst. Prof. in Pharmaceutical Chemistry, Goa College of Pharmacy	21-02-2019.
3.	Liesl Maria Fernandes	Asst. Prof. in Pharmacology, Goa College of Pharmacy	21-02-2019.
4.	Asmita S. Arondekar @Korgoankar	Asst. Prof. in Pharmacology, Goa College of Pharmacy	11-09-2016.
5.	Rohan Ramesh Prabhu	Asst. Prof. in Pharmaceutics, Goa College of Pharmacy	21-02-2019.

With the placement of the faculty to the higher level of Pay, the respective posts, the above faculty are currently holding stands temporarily upgraded for the sole purpose of placement of the existing faculty to the higher level of Pay. These posts shall stand reverted to the original posts, level of Pay, once the faculty cease to occupy the upgraded posts.

The above employees may exercise an option if so desire within one month from the date of issue of the order for fixing his/her pay.

By order and in the name of the Governor of Goa.

Dr. *Vivek B. Kamat*, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 21st December, 2021.

Order

No. 16/289/CAS/Degree/DTE/2012/3146

On the recommendations of the Departmental Promotion Committee constituted vide Government Order No. DTE/Estt/I-9-II/Pay - Fix/2009/4310 dated 10-10-2011 for implementing the Career Advancement Scheme (CAS) as per the recommendations of AICTE accepted by the Government vide order No. DTE/Estt/I-9-II/Pay Fixation/2009/273 dated 27-01-2011 and order No. 17/2/58/2010/Vol.VI/DTE/Part-III/194 dated 27-04-2021, approval of the Government is hereby conveyed to Grant Pay Level 12 (Pre-revised Academic Grade Pay of Rs. 8000/- in the Pay Scale of Rs. 15,600 - 39,100), to the following Assistant Professors of Goa College of Pharmacy, Panaji, Goa.

Sr. No.	Name	Department	Date of CAS
1.	Mythili Krishna Jeedigunta	Asst. Prof. in Pharmacognosy, Goa College of Pharmacy	23-08-2019.
2.	Vaibhav V. Potdar	Asst. Prof. in Inorganic Chemistry, Goa College of Pharmacy	25-06-2019.
3.	Sachi S. Kudchadkar	Asst. Prof. in Pharmaceutical Analysis, Goa College of Pharmacy	23-06-2018.
4.	Vithal R. Bhandare	Asst. Prof. in Organic Chemistry, Goa College of Pharmacy	14-08-2018.

With the placement of the faculty to the higher level of Pay, the respective posts, the above faculty are currently holding stands temporarily upgraded for the sole purpose of placement of the existing faculty to the higher level of Pay. These posts shall stand reverted to the original posts, level of Pay, once the faculty cease to occupy the upgraded posts.

The above employees may exercise an option if so desire within one month from the date of issue of the order for fixing his/her pay.

By order and in the name of the Governor of Goa.

Dr. Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 21st December, 2021.

Order

No. 16/289/CAS/Degree/DTE/2012/3147

On the recommendations of the Departmental Promotion Committee constituted vide Government Order No. DTE/Estt/I-9-II/Pay - Fix/2009/4310 dated 10-10-2011 for implementing the Career Advancement Scheme (CAS) as per the recommendations of AICTE accepted by the Government vide order No. DTE/Estt/I-9-II/Pay Fixation/2009/273 dated 27-01-2011 and order No. 17/2/58/2010/Vol. VI/DTE/Part III/194 dated 27-04-2021, approval of the Government is hereby conveyed to Grant Pay Level 11 (Pre-revised Academic Grade Pay of Rs. 7000/- in the Pay Scale of Rs. 15,600 - 39,100), to the following Assistant Professors of Goa College of Engineering, Farmagudi, Ponda-Goa.

Sr. No.	Name	Department	Date of CAS
1.	Milind Lui Fernandes	Assistant Professor in Electronics & Tele Com., Goa College of Engineering	14-08-2018.
2.	Deepali M. Raikar	Assistant Professor in Information Technology, Goa College of Engineering	22-09-2019.
3.	Teslin Jacob	Assistant Professor in Computer Engg., Goa College of Engineering	26-12-2019.
4.	Mario Pinto	Assistant Professor in Information Technology, Goa College of Engineering	01-10-2019.
5.	Megha G. Nayak	Assistant Professor in Information Technology, Goa College of Engineering	13-10-2019.
6.	Siddhi P. Naik	Assistant Professor in Information Technology, Goa College of Engineering	22-09-2019.
7.	Geeta S. Shet	Assistant Professor in Electronics & Tele Com., Goa College of Engineering	10-11-2019.
8.	Sherica Lavinia Menezes	Assistant Professor in Computer Engineering, Goa College of Engineering	05-11-2019.
9.	Melina Maria Afonso	Assistant Professor in Computer Engineering, Goa College of Engineering	03-11-2019.

1	2	3	4
10.	Purti R. Savardekar	Assistant Professor in Electronics & Tele Com., Goa College of Engineering	27-10-2019.
11.	Shruti N. Pednekar alias Shruti G. Naik	Assistant Professor in Computer Engineering, Goa College of Engineering	25-11-2019.
12.	Sayeesh D. Habbu	Assistant Professor in Sc. & Hum., Goa College of Engineering	13-07-2019.

With the placement of the faculty to the higher level of pay, the respective posts, the above faculty are currently holding stands temporarily upgraded for the sole purpose of placement of the existing faculty to the higher level of Pay. These posts shall stand reverted to the original posts, level of pay, once the faculty cease to occupy the upgraded posts.

The above employees may exercise an option if so desire within one month from the date of issue of the order for fixing his/her pay.

By order and in the name of the Governor of Goa.

Dr. *Vivek B. Kamat*, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 21st December, 2021.

Order

No. 16/393/MACPS/DTE/2015/3149

On the recommendation of Screening Committee constituted vide O.M. No. 2/7/2017-PER/900 dated 05-04-2021, approval of the Government vide U. O. No. 7919/F dated 10-12-2021 is hereby accorded for grant of 01st "Modified Assured Career Progression Scheme" (MACPS) to below mentioned Group 'A' Gazetted Officer of Goa College of Architecture in the pay scale and date, as shown in the table below.

Sr. No.	Name and Designation	Date of initial appointment	Present pay scale	Date of grant of 01st MACPS	Pay Scale granted
1.	Victor C X D'Souza, System Analyst, Goa College of Architecture	06-08-2010	Level 10	06-08-2020	Level 11

The above employees may exercise an option if so desire within one month from the date of issue of the order for fixing his/her pay in the M.A.C.P. Scheme scale.

The expenditure on their pay and allowance shall be debited to the Budget Head under which their salary is drawn.

By order and in the name of the Governor of Goa.

Dr. *Vivek B. Kamat*, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 21st December, 2021.

Order

No. 16/557/PF/SBB/GEC/DTE/21/3250

- Read: 1) Memorandum No. 16/250/C&R of Posts of GEC/DTE/10/Pt.II/2261 dated 07-12-2021.
2) Order No. 16/139/Filling up Post/GEC//DTE/03-04/PF III/2239 dated 12-12-2006.

On the recommendations of Goa Public Service Commission conveyed vide their letter No. COM/I/5/18(1)/2019/438 dated 19-11-2021, Government is pleased to appoint Shri Samarth Bhagirath Borker on temporary basis to the post of Associate Professor in Electrical and Electronics Engineering (Group 'A' Gazetted) at Goa College of Engineering, Farmagudi, Ponda-Goa on an initial pay at Level 13 A1 [i.e. initial

pay of Rs. 37,400/- (pre-revised) in the Pay Scale of Rs. 37,400 - 67,000/- (pre-revised) (PB-4) + Academic Grade Pay of Rs. 9,000/- (pre-revised)] as per the terms & conditions contained in the Memorandum cited above.

His pay may be fixed as per rules.

The appointment is against the post of Associate Professor in Electrical and Electronics Engineering vacated by Shri Shirish B. Karapurkar w.e.f. 27-02-2020.

Shri Samarth Bhagirath Borker will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim and his character and antecedents have been verified and nothing adverse is reported against him during his selection as Lecturer in Electronics and Telecommunication Engineering in Goa College of Engineering, Farmagudi, Ponda-Goa.

By order and in the name of the Governor of Goa.

Dr. Vivek B. Kamat, Director & ex officio Addl. Secretary (Tech. Education).

Porvorim, 29th December, 2021.

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Department of Environment & Climate Change

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Notification

No. 31-9-2017/STE-DIR/Part-I/1060

In exercise of the powers conferred by sub-sections (1) and (2) of Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (Central Act 6 of 1974), the Government of Goa is pleased to re-constitute the Goa State Pollution Control Board (GSPCB) for the period of three years from the date of notification in Official Gazette. The composition of the Board shall be as follows:-

1. Mr. Mahesh K. Patil	—	Chairman.
2. Director, Industries, Trade & Commerce	—	Member.
3. Chief Engineer, Water Resources Department	—	Member.
4. Director, Food & Drugs Administration	—	Member.
5. Chief Inspector of Factories & Boilers	—	Member.
6. Director, Directorate of Health Services	—	Member.
7. Shri Shawn Brian Martins, Panch Member, V.P. Calangute	—	Member.
8. Shri Shubham Chodankar, Corporator, Corporation City of Panaji	—	Member.
9. Smt. Unnati Sahastrabudhe, Panch Member, V.P. Velguem	—	Member.
10. Shri Ashirwad T. Khorjuvekar, Councilor, Mapusa Municipal Council	—	Member.
11. Shri Pradip K. Naik, Councilor, Curchorem Cacora Municipal Council	—	Member.
12. President, Confederation of Indian Industries (CII)	—	Member.
13. President, Goa Chamber of Commerce and Industries (GCCCI)	—	Member.
14. President, Travel & Tourism Association of Goa (TTAG)	—	Member.
15. Managing Director, Goa State Infrastructure Development Corporation	—	Member.
16. Managing Director, Goa Waste Management Corporation	—	Member.
17. Dr. Shamila Monteiro	—	Member Secretary.

By order and in the name of the Governor of Goa.

Dasharath M. Redkar, Director & ex officio Jt. Secretary (Environment & Climate Change).

Panaji, 5th January, 2022.

Department of Home

Home—General Division

Order

No. 20/26/66-HD(G)/Vol. IV/DSW/4286

Sanction of the Government is hereby accorded to incur an expenditure of Rs. 3,79,000/- (Rupees Three lakhs seventy nine thousand only) towards payment in cash in lieu of land grant for the Post Independence Gallantry/Non-Gallantry award winners to the following 22 awardees by the Department of Sainik Welfare.

List of Gallantry/Non-Gallantry Award Winners, 2020-21.

Sr. No.	Name of Awardees	Award	Total Annuity	
1.	Late Wg Cdr V B Sawardekar (Smt. Asha V. Sawardekar)	KC - 55000/- AVSM - 5000/-	60000/-	Widow
2.	General S.F. Rodrigues	PVSM - 6000/- VSM - 3000/-	9000/-	
3.	Late Cdr Noel Kelman (Retd.) (expired), (Smt. Patricia Kelman)	KC - 55000/-	55000/-	Widow
4.	Late Air Mshl C S Naik (Retd.) (expired), (Smt. Teresa Maria Naik)	PVSM - 6000/- AVSM - 5000/- VSM - 3000/-	14000/-	Widow
5.	Vice Adm John D'Silva (Retd.) (expired) (Smt. Meena DeSilva)	PVSM - 6000/- AVSM - 5000/-	11000/-	Widow
6.	Rear Adm P.A. Debrass (Retd.)	AVSM - 5000/- NM (G) - 7000/-	12000/-	
7.	Maj Gen (Mrs.) G A Saha (Retd.)	AVSM- 5000/- VSM- 3000/-	8000/-	
8.	Cmde K P Mathew (Retd.)	AVSM - 5000/-	5000/-	
9.	Brig Ian da Costa (Retd.)	VSM - 3000/-	3000/-	
10.	Wg Cdr Cecil Barretto (Retd.)	VSM - 3000/-	3000/-	
11.	CPO Nathu Singh Tomar	NM(G) - 7000/-	7000/-	
12.	Hony Sub Lt Kans Raj	NM(G) - 7000/-	7000/-	
13.	Late Spr Ramchandra S. Shinde (Smt. Tarabai S. Shinde)	SC - 35000/-	35000/-	Mother
14.	Gp. Capt C A Dalton (Retd.)	VM(G) -7000/-	7000/-	
15.	Late Lt. Narendra A. Mayekar (Smt. Neha N. Mayekar)	KC - 55000/-	55000/-	Widow
16.	Maj. Gen Pakala Venkateswarlu (Retd.)	AVSM - 5000/- VSM - 3000/-	8000/-	
17.	Admiral Sureesh Mehta (Retd.)	PVSM - 6000/- AVSM - 5000/-	11000/-	
18.	Air Vice Marshal Giles Gomez (Retd.)	VSM - 3000/-	3000/-	
19.	Col I.J. Crasto (Retd.)	KC - 55000/-	55000/-	
20.	Brig. Sanjay Kumar Vidyarthi	SM - 2500/-	2500/-	
21.	Brig. Anil John Alfred Pereira	SM - 2500/-	2500/-	
22.	Lt. Gen C A Barretto (Retd.), Miss Lianne Julie Barretto	PVSM - 6000/-	6000/-	
			Rs. 3,79,000/-	

(Rupees Three lakhs seventy nine thousand only).

[KC-Kirti Chakra, AVSM-Ati Vishist Seva Medal, PVSM-Param Vishist Seva Medal, VSM-Vishist Seva Medal, NM (G)-Nausena Medal (Gallantry), SC-Shaurya Chakra, VM(G)-Vayu Sena Medal, SM-Sena Medal].

All the award winners have to be paid one time cash and cash in lieu of land once in a year (Annually).

The expenditure shall be debited to Budget Head: 2235 — Social Security & Welfare, 60 — Other Social Security & Welfare Prog., 200 — Other Programmes, 05 — Cash Grant/Cash in lieu of Land Grant for the Post Independence Gallantry, 32 — Contribution.

The amount will be drawn and disbursed by the Secretary, Department of Sainik Welfare, Panaji-Goa.

This issues with the concurrence of Finance (Exp.) Department vide their U.O. No. 1400068587 dated 30-11-2021.

By order and in the name of the Governor of Goa.

Girish G. Sawant, Under Secretary (Home-II).

Porvorim, 23rd December, 2021.

Order

No. 24/31/2014-HD(G)/P/4356

Read: Memorandum No. 24/31/2014-HD(G)/442 dated 11-02-2021.

On the recommendation of the Goa Public Service Commission, as conveyed vide their letter No. COM/ /I/5/58(1)/2020/873 dated 29-12-2020, the Government is pleased to appoint Shri Narendra Arjun Velip on provisional basis, to the post of Assistant Public Prosecutor (Group 'A' Gazetted) in the Directorate of Prosecution in Level-10 of the Pay Matrix. His pay will be fixed in accordance with CCS (Revised Pay) Rules, 2016. His appointment is further subject, to the following conditions:

1. The final outcome of the criminal case No. 21/5/2017/B pending for trial before JMFC, Quepem.
2. The candidate has been declared medically fit by the Medical Board and his character and antecedents has been verified.
3. The candidate shall be on probation for a period of two years with effect from his date of joining.
4. The pay and allowances of the above candidate shall be debited to the Budget Head controlled by the Directorate of Prosecution wherever he is posted from time to time.

5. The candidate shall join his duties in the Directorate of Prosecution with immediate effect subject to the decision of the court resulting in acquittal/conviction in the criminal case.

By order and in the name of the Governor of Goa.

Girish G. Sawant, Under Secretary (Home-II).

Porvorim, 30th December, 2021.

Department of Labour

Order

No. 28/37/2021-LAB/635

Whereas, the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. GVK EMRI (Emergency Management & Research Institution), 1st Floor, Block No. 05, Old Library Block, Goa Medical College, Bambolim, Goa and their workmen, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa at Panaji-Goa, constituted under Section 7-A of the said Act.

SCHEDULE

"(1) Whether the action of the management of M/s. GVK EMRI (Emergency Management & Research Institution), 1st Floor, Block No. 05, Old Library Block, Goa Medical College, Bambolim, Goa in terminating the services of following 12 workmen, is legal and justified?

Names of Workmen

- (1) Ramu Vithu Shelko.
- (2) Sameer Zilu Gaonkar.
- (3) Shavesh Gaonkar.
- (4) Gajanan Usapkar.
- (5) Yeshwant Naik.
- (6) Keshav Govekar.
- (7) Pravin Naik.
- (8) Shamrao S. Jadhav.

- (9) Sagun Varak.
 (10) Eshan Naik.
 (11) Mohit Chari.
 (12) Ms. Pranaya Chari.
 (2) If not, to what relief the workmen are entitled?"

By order and in the name of the Governor of Goa.

Amalia O.F. Pinto, Under Secretary (Labour).
 Porvorim, 28th December, 2021.

Notification

No. 28/2/2021-LAB/Part-II/425

The following Award passed by the Labour Court-II, at Panaji-Goa on 23-07-2021 in Case No. Ref. LC-II/C-IT/03/20 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).
 Porvorim, 31st August, 2021.

IN THE LABOUR COURT-II
 GOVERNMENT OF GOA
 AT PANAJI

(Before **Shri Suresh N. Narulkar, Hon'ble Presiding Officer**)

Case No. Ref. LC-II/C-IT/03/20

Shri Sunil Chauhan,
 R/o. H. No. 103, Swarkar Nagar,
 Sasmoalem, Baina,
 Vasco-da-Gama, Goa Workman/Party-I
 V/s

M/s. High Street Cruises and
 Entertainment Pvt. Ltd.,
 Panaji-Goa Employer/Party-II
 Workman/Party-I present in person.

Employer/Party-II represented by Adv. Shri P. Chawdikar.

Panaji, Dated: 23-07-2021.

AWARD

1. This Award shall dispose off the complaint filed by the Party I u/s 33-A of the I.D. Act, 1947.

2. It is the case of the Workman/Party-I (for short 'Party I'), in brief as pleaded are that he was working in the establishment of the Employer. He stated

that he was thrown out allegedly without any notice by the Employer as he filed a complaint against the Employer in the office of the Commissioner, Labour and Employment, Panaji-Goa, vide his letter dated 20-05-2016. He stated that the Employer issued him show cause cum suspension letter, vide letter dated 25-07-2016 as per law as alleged by the Employer. He stated that the Employer also issued him a charge-sheet cum notice of enquiry under letter dated 20-08-2016 as per the model standing orders applicable to them. He stated that a conciliation proceedings was in the process in the office of Commissioner, Labour and Employment, Panaji, Goa in the matter of the issues, he was dismissed from service pending conciliation proceedings without permission of the said Conciliation Officer. He submitted that the said action of the Employer is in violation of Section 33 (1) of the I.D. Act, 1947. He stated that he filed a complaint on 02-03-2017 for stopping his subsistence allowance and also for punishment of dismissal, pending conciliation proceedings before any judgment by the office of Commissioner, Labour and Employment, Panaji-Goa. He stated that he has filed his claim statement as well as his affidavit in evidence in the reference bearing case No. LC-II/IT/14/2017, pending before this Hon'ble Court. He stated that his complaint of issues dated 20-05-2016, as well as complaint for illegally throwing him out from service without any notice by the Employer and for punishment of dismissal in pending conciliation proceedings before any judgment from the office of Commissioner, Labour and Employment, Panaji, Goa caused an industrial dispute. He stated that the said conciliation proceedings ended in failure. He stated that the appropriate Government has referred the said industrial dispute to this Labour Court II, which has been numbered as LC-II/IT/14/2017 and pending for its adjudication. He submitted that the principles of natural justice, Industrial Employment (Standing Orders) Act, 1946 is applicable to the Employer and the said act is extended to the Goa Daman and Diu by Regulation 12 of 1962. He stated that the employer has failed to give him service conditions which caused grave prejudice to his life and liberty. The Workman therefore prayed for an order directing the Employer for the payment of full back wages, allowances, tips etc. as per law since July, 2016 till date and for payment in further continuation. The Workman also prayed for an appropriate order as deemed fit against the Employer for violation of Section 33 (1) of the I.D. Act, 1947.

3. The Employer resisted the claim of the Workman by filing his reply dated 03-02-2020 at

Exb. 4. The Employer, as and by way of its preliminary objections, submitted that the present complaint filed by the Party I cannot be construed as an 'Industrial Dispute' as defined u/s 2 (k) of the I.D. Act, 1947, that the present application filed by the party I with malafide intentions, with ulterior motives and as such the claim be dismissed with limine, that the present application filed by the Party I is bad-in-law and not maintainable, that the Party I was appointed as management of the Employer as "Sr. Casino Dealer" in supervisory cadre, that duties discharged by him are purely of a supervisory nature and he cannot be construed as 'workman' as defined u/s 2 (s) of the I.D. Act, that the Party I performed essentially and pre-dominantly supervisory, managerial and administrative functions, his duties and functions and his exercise of powers over the subordinates excludes him from the purview of the definition of the 'workman' under the I.D. Act, 1947. The Employer submitted that the grades, scales and allowances applicable to the Party I were of management cadre and as such this Hon'ble Court does not have the jurisdiction to entertain present petition.

4. Without prejudice to aforesaid submissions, the Employer stated that it is a company duly incorporated under the Indian Companies Act, having its office at Fisheries Building, Panaji-Goa. The Employer stated that the services of the Party I were terminated by them and therefore the present petition filed by the Party I does not deserve any consideration of this Hon'ble Court. The Employer submitted that the Party I has filed the present petition without any use of action with an intension to extract money from them and to pressurize and harass them. The Employer submitted that there are ongoing proceedings before this Hon'ble Court and the Party I has filed the present petition u/s 33-A of the I.D. Act, 1947 claiming full back wages, allowances, tips etc. after termination of his services. The Employer submitted that the Party I has also filed one more separate complaint u/s 10-A of Industrial Employment (Standing Orders) Act, 1946 which is not maintainable and that the Party I is in habit of filing such frivolous complaints and applications. The Employer submitted that the Party I has filed separate application u/s 10-A of Industrial Employment (Standing Orders) Act, 1946 claiming subsistence allowance till date and whereas simultaneously, also filed the present petition u/s 33-A of the I.D. Act, 1947 claiming full back wages, allowances etc. after termination of his services for the same period. This implies that the Party I not only dragging them in frivolous and

futile litigations but also wasting precious time of this Hon'ble Court. The Employer submitted that both the petitions filed by the Party I cannot be entertained as the same are filed in violation of separate procedure laid down under Industrial Disputes Act, and as such deserves to be dismissed with exemplary costs. The Employer submitted that the management had followed the proper procedure with due regards to the principles of natural justice in case of the Party I. The Employer submitted that the management had even conducted enquiry as an abundant caution, though it was not mandatory under the law considering the fact that the Party I is not a 'workman' as defined u/s 2 (s) of the I.D. Act, 1947. The Employer submitted that they have taken appropriate decision in the matter of the Party I after conclusion of the enquiry proceedings held against him and their decision is perfectly legal, just and in accordance with law.

5. The Employer stated that the Party I was involved in several acts of misconducts during his service tenure. The Employer stated that they have afforded him several opportunities to improve his behavioural and other related issues at the work place. The Employer stated that the Party I was placed under suspension vide suspension letter dated 25-07-2016. The Employer stated that he was regularly paid subsistence allowances as per law. The Employer stated that subsequently, charge sheet-cum-notice of enquiry dated 20-08-2016 was also issued to the Party I. The Employer stated that have instituted an enquiry by appointing Mr. Prashant Agarwal, an advocate, as an Enquiry Officer to conduct an impartial enquiry. The Employer stated that accordingly, an enquiry was conducted by an impartial and competent Enquiry Officer. The Employer stated that the enquiry has been conducted by the said Enquiry Officer in accordance with the principles of natural justice. The Employer submitted that the Party I was given every conceivable opportunity to participate and present his case during the enquiry. The Employer stated that after the conclusion of the enquiry, the Enquiry Officer submitted his findings dated 07-12-2016 holding Mr. Sunil Chauhan i.e. Party I guilty of charges levelled against him. The Employer stated that the Employer perused the charges, the proceedings of the enquiry and the findings of the Enquiry Officer and concluded that the enquiry has been conducted in accordance with the principles of natural justice and the findings of the Enquiry Officer are fair, proper and based on evidence on record. The Employer stated that it can be seen that the Enquiry Officer has given his reasoned findings. It. can be also seen from the

records that the charges levelled against the Party I has been proved in the enquiry as there is sufficient evidence on record against him to hold him guilty of the charges mentioned in the charge-sheet. The Employer stated that considering the gravity of proved misconducts and past records, they dismissed the Party I from its services, vide dismissal letter dated 22-12-2016. The Employer stated that they paid the Party I all his legal dues including entire subsistence allowances payable as per law which has been duly accepted by him. The Employer stated that the management states that the termination of services of Mr. Sunil Chauhan is therefore legal and justified and hence, he is not entitled for any reliefs as claimed by him before this Hon'ble Court. The Employer stated that the Party I is definitely not entitled to claim any back wages, allowances, tips etc. in the present proceedings.

6. Without prejudice to the above, the Employer stated that it has conducted the disciplinary enquiry against the Party I by following all the legal procedures under the Industrial Disputes Act as an abundant caution. The employer stated that after concluding the enquiry, the services of the Party I were terminated by following the legal process and all the legal dues were paid to him. The Employer submitted that the Party I was also paid the subsistence allowances till the date of termination of his services and as such there is no employer-employee relationship survives between them and the Party I. The Employer finally denied the case of Party I as pleaded by him and prayed for dismissal of the present complaint filed by him.

7. Thereafter, the Party I filed his re-joinder on 10-02-2021 at Exb. 5. By way of said re-joinder, the Party I confirms and reiterates all his submissions, averments and statements made in his claim statement to be correct and true and denies all the statements, averments and submissions made by the Employer in its written statement which are contrary to his Statement and averments made in his claim statement. The Party I submitted that the Employer conducted illegal domestic enquiry in the name of model standing orders, but in fact the Employer has not certified its model standing orders. He submitted that the Employer conducted the domestic enquiry, when the conciliation proceedings was in the process in the office of Commissioner, Labour and Employment, Panaji-Goa. He submitted that the Employer has malafidely and with colourable exercise misused the procedure of domestic enquiry. He submitted that the Employer does not believe in following any rules, laws and procedures in its establishment and following the

aggressive cost cutting company policies which effects the life and liberty of the employees and the Employer have no respect or even fear of law. He stated that no transfer letter, appointment letter, salary statement and promotion letter was given showing that he belongs to the supervisory cadre, managerial and administrative.

8. This Court framed following issues on 23-02-2021 at Exb. 11. The said issues have been up-dated on 17-03-2021 at Exb.18 on account of amendment to the written statement by the Employer.

1. Whether the Workman/Party I proves that he is a 'workman' within the meaning of Section 2 (s) of the I.D. Act, 1947?
2. Whether the Workman/Party I proves that the Employer contravened the provisions of Section 33 of the I.D. Act, 1947 pending a reference bearing No. LC-II/IT/14/17 before this Labour Court II?
3. Whether the Employer/Party II proves that the present complaint filed by the Workman is liable to be dismissed in view of preliminary objections raised by them in para a, b and c of its written statement?
4. Whether the Workman/Party-I is entitled to any relief?
5. What order? What award?

9. My answers to the aforesaid issues are as under:

- | | |
|-----------------------|-----------------------|
| (a) Issue No. 1 | : In the negative. |
| (b) Issue No. 2 | : In the negative. |
| (c) Issue No. 3 | : In the affirmative. |
| (d) Issue No. 4 and 5 | : As per final order. |

The Party I as well as Ld. Adv. Shri P. Chawdikar filed their synopsis of written arguments respectively. I have carefully perused the entire records of the present case including the synopsis of written submissions filed by the respective parties hereinabove and is of the opinion as under:

REASONS

Issue No. 1:

10. As the Employer denied that the Party I is a 'workman' within the meaning of section 2 (s) of the I.D. Act, 1947, the burden was cast on the Party I to prove that he is a 'workman' within the meaning of Section 2 (s) of the I.D. Act, 1947. It is therefore necessary to refer to the definition of the 'workman' as defined u/s 2 (s) of the I.D. Act, 1947.

Section 2 (s) of the I.D. Act, 1947 defines the term 'workman' and it means "*any person (including an apprentice) employed in any*

industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or a consequence of that dispute or dismissal, discharge or retrenchment has led to that dispute, but does not include any such person:

- (1) who is subject to the AIR Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or
- (2) who is employed in the police service or as an Officer or other employee of a prison or
- (3) who is employed mainly in a managerial or administrative capacity
- (4) who, being employed in a supervisory capacity draws wages exceeding Rs. 1,600/- per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

Thus, from the bare reading of definition of "Workman" under the I. D. Act, 1947, it is clear that in order to prove the concerned employee is a 'Workman' or not within the meaning of the said act, he/she must prove that he/she was employed in an 'Industry' as defined under the said Act and secondly he/she was employed to perform any of the work such as to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

11. In the case of **H. R. Adyanthaya v/s Sandoz (I) Ltd. reported in 1994 (69) FLR 593**, the Hon'ble Supreme Court of India held that "a person claiming to be a Workman under the I. D. Act, 1947 must show that he was employed to do the work of any of the category which of manual, unskilled, skilled, technical, operational, clerical or supervisory and that is not enough that he was not covered by either of the four exceptions to the definition of the Workman."

12. In the case of **Management of M/s Sonepat Co-operative Sugar Mills Ltd. v/s Ajit Singh reported in 2005 LAB IC 1315**, the Hon'ble Supreme Court of India observed that "the question as to whether the Employee has been performing a clerical work or not is required to be determined upon arriving at the findings as regards the dominant nature of duty with a view to give effect to the expression to do "any manual, unskilled, skilled, technical, operational, clerical or supervisory work",

the job of the concerned employee must fall within one or other category thereof It would therefore not be correct to contend that merely because the employee had not been performing any managerial or supervisory duties, ipso facto, he would be a Workman".

The principle laid down by the Hon'ble Apex Court in its aforesaid both judgments is well recognized.

13. Thus, it is crystal clear that the employee must prove that he was performing the duties of manual, unskilled, skilled, technical, operational, clerical or supervisory work and it is not sufficient to prove that the concerned employee was not falling in any of the exceptional category i.e. administrative, managerial and/or supervisory in nature and drawing a salary of more than Rs. 7,500/- p.m. It is well settled law that whether a person is a 'workman' or not as defined u/s 2 (s) of the I. D. Act, 1947 has to be decided on the basis of the predominant nature of duties performed by concerned person at the relevant time, it cannot lay down any straight jacket formula.

14. In the case of **Shankar Chakrawarti v/s Britannia Biscuits Co. Ltd. reported in 1979 SC 1652**, the Hon'ble Supreme Court of India, has held that "it is well settled principles of law that the allegation which was not pleaded and even if the evidence is adduced in that regards cannot be examined because the other side has no notice of it and if such evidence is entertained it would tantamount to granting unfair advantage to the Party who had not pleaded his case properly".

15. The principle laid down by the Hon'ble Apex Court in its aforesaid judgment is well settled and applicable to the case in hand. In the case in hand, it appears that the Party I was designated as 'Sr. Casino Dealer' at the time of dismissal from the service of the Employer. The Party I was required to plead his predominant nature of duties in his pleadings i.e. his claim statement as well as rejoinder and also prove the same, which he was performing as a Sr. Casino Dealer, while working with the Employer. Failure to plead his pre-dominant nature of duties, the Party I failed to prove that he is a 'workman' as defined u/s 2 (s) of the I.D. Act, 1947. This finds merits in the written submissions of Ld. Adv. Shri P. Chawdikar, representing the Employer. Hence, it is held that the Party I failed to prove that he is a 'workman' as defined u/s 2 (s) of the I.D. Act, 1947. The issue No. 1 is therefore answered in the negative.

Issue No. 2:

16. The Party I claimed that the Employer violated Section 33 (1) of the I.D. Act, 1947 and as such he filed the present complaint u/s 33-A of the Act. The burden was cast upon the Party I to prove the same.

The pre-conditions for violation of Section 33-A of the I.D. Act is the contravention of Section 33 of the I.D. Act, 1947. It is therefore necessary to refer the Section 33 of the I. D. Act, 1947 and it reads as under:

Section 33:

Conditions of service, etc. to remain unchanged under certain circumstances during the pendency of the proceedings:- (1) *During the pendency of any conciliation proceedings before a conciliation officer or a Board of any proceedings before [an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall—*

- (a) *in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or*
- (b) *for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute;*

save with the express permission in writing of the authority before which the proceeding is pending.

(2) *During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute [or, where there are no such standing-, orders, in accordance with the terms of contract, whether express or implied, between him and the workman]—*

- (a) *alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceedings; or*
- (b) *for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:*

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3)

(4)

(5) *where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass [within a period of three months from the date of receipt of such application], such order in relation thereto as it deems fit].*

[Provided that where any such authority considers it necessary or expedient so to do, it may: for reasons to be recorded in writing, extend such period by such further period as it may think fit.

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.]

17. Thus, the pre-condition of Section 33 (1) and Section 33 (2) are as under:

- (a) there should be a pendency of any conciliation proceeding in respect of an industrial dispute;
- (b) the workman claiming protection should not only be a 'workman' within the meaning of Section 2(s), but he should also be a workman concerned in the pending dispute;
- (c) the alteration in question should have the effect of making a change in the conditions of service applicable to such workman which were applicable to him immediately before the commencement of such proceeding and such alteration should be prejudicial to his interest; and/or the action proposed to be taken should be 'discharge' or 'punishment' whether by dismissal or otherwise;
- (d) such alteration should be in regard to any matter connected with the pending dispute or such discharge or punishment should be in regard to any misconduct connected with the pending dispute.

18. In the case of **Suresh Vithoo Nare v/s. Dharamsi Moraji Chemicals**, reported in 1991 (63) FLR 359, the Hon'ble High Court of Bombay in para 4 of its judgment observed as under:

4. It was observed by the Hon'ble Division Bench of this Court in East Asiatic and Allied Companies v/s Shelke (B.L.) (1961) 1 LLJ 162 that

"It is the duty of the conciliation officer to satisfy himself before undertaking conciliation

proceedings as to whether the grievance which the union has put forward is genuine or not. Since the law confers a discretion upon the conciliation officer whether he should enter upon conciliation or not, it is only right and proper that he should satisfy himself by all means available to him about the propriety of undertaking conciliation. If for satisfying himself in this respect, he holds preliminary discussions with the representatives of the parties and even conveys proposals made by, one of the parties to the other, it could not be said that he has commenced conciliation proceedings. He could do so to satisfy himself as to whether there is any genuine dispute and whether it is a matter in which he should undertake conciliation.

*These observations made by this Court also clearly show that a mere issue of notice by the conciliation officer does not amount to instituting a conciliation proceeding. Again, a single Judge of this Court (Jamdar, J.) in the case of **Mahendra Gajanan Khasar and Ors. v/s. Zonal Manager, Maharashtra State Co-operative Marketing Federation Ltd.** FLR 1984 (49) 232 had observed that even assuming that sending a copy of the approach application to the Assistant Commissioner of Labour amounts to institution of conciliation proceedings, it would not bar a complaint under the unfair labour practices Act because as held above, conciliation proceedings, under the ID. Act are not proceedings contemplated by Section 59 of the Unfair Labour Practices Act which would act as bar to subsequent proceedings under the Unfair Labour Practices Act. Again, while dealing with a similar contention, a Division Bench of this court in **Consolidated Pneumatic Tool Co. (India) Ltd. v/s. R.A. Gadekar and Ors.**, FLR 1986 (52) 467 had observed."*

The principle laid down by the Hon'ble High Court of Bombay in its aforesaid judgment is well established and also applicable to the case in hand.

19. In the instant case, the Party I is required to prove the aforesaid ingredient of Section 33 of the I.D. Act by a cogent and reliable evidence. The evidence on record indicates that the services of the Party I were terminated by the Employer by way of dismissal, vide letter dated 27-12-2016 (Exb. 27) and the said reference bearing No. LC-II/IT/14/17 is pending for its adjudication before this Labour Court II. However, there is nothing on record to prove that the Party I or any other person/union on behalf of the Party I has raised an 'industrial dispute' which is pending before any conciliation authority or a board or a Labour Court or Tribunal or National

Tribunal and/or that the Party I is concerned in any of the pending alleged dispute. Merely alleging that the Party I has filed a complaint of the Employer to the office of the Commissioner, Labour and Employment, Panaji, Goa pertaining to his alleged issues does not fall within the meaning of 'industrial dispute' as defined u/s 2 (k) of the I.D. Act, 1947. There is nothing on record to show that the said complaint of the Party I has been admitted by the conciliation authority at any point of time. Thus, the Party I has failed to prove that there is a pendency of the industrial dispute before the conciliation authority, Labour Court, Industrial Tribunal or before any Arbitrator etc.

20. The Party I had summoned records and proceeding of the alleged conciliation proceedings held before the Asstt. Labour Commissioner (ALC) and Conciliation Officer, Panaji, Goa. Neither the Party I has produced on record the records and proceedings of the said conciliation proceedings held before ALC and conciliation Officer, Panaji, Goa nor examined the said Conciliation Officer, so as to read the said documents in evidence. Even otherwise, upon careful perusal of the said records and proceedings held before the ALC and Conciliation Officer, Panaji, Goa, it appears that the Party I had made a complaint of the Employer to the Commissioner, Labour and Employment, Panaji, Goa, pertaining to the inability to reply to his forty queries/issues raised by him pertaining to the rights of the employees working in the establishment of the Employer, vide letter dated 20-05-2016. In pursuance to the same, Ld. Conciliation Officer, Panaji, Goa directed the Employer to file their comments. The Employer also filed its comments. There is nothing in the said file summoned from the ALC and Conciliation Officer, Panaji, Goa that an industrial dispute was raised by the Party I or any other person/union on behalf of the Party I and that he is concerned with the said dispute. More so ever, the alleged dispute has not been admitted in the conciliation proceedings at any point of time. Thus, the pendency of the said alleged conciliation proceedings before the ALC and Conciliation Officer cannot be said to be an 'industrial dispute' as defined u/s 2 (k) of the I.D. Act, 1947.

Thus, the Party I failed to prove that the Employer contravened Section 33 of the I.D. Act, 1947.

21. In the case of **Stanley Mendex v/s Glovanola Binny Ltd. and Ors.**, reported in (1968) II LLJ 470, the Hon'ble High Court of Kerala in para 5 of its judgment has held as under:

"5. In a complaint made to the tribunal under Section 33A, the primary question that falls to be considered by tribunal is whether there has been a contravention by the employer of the provisions of

Section 33 of the Act, and it is only in case it is found that there has, in fact, been such contravention that occasion arises for the tribunal to embark upon a further adjudication of the complaint on its merits; in other words, the tribunal has to be satisfied initially that there has, in fact, been a contravention by the employer of the provisions of Section 33 by effecting during the pendency of other proceedings before it, an alteration to the prejudice of the workman concerned, of the conditions of his service which were applicable to him immediately before the commencement of such proceedings”.

The principle laid down by the Hon'ble High Court of Kerala is not applicable to the case in hand.

Hence, it is held that the Party I failed to prove that the Employer contravened the Section 33 of the I.D. Act, 1947, pending reference bearing No. LC-II/IT/14/17 before this Labour Court II. The issue No. 2 is therefore answered in the negative.

Issue No. 3:

22. The Employer, as and by way of its preliminary objections, submitted that the present complaint filed by the Party I cannot be construed as an 'Industrial Dispute' as defined u/s 2 (k) of the I.D. Act, 1947, that the present application filed by the Party I with malafide intentions, with ulterior motives and as such the claim be dismissed with limine, that the present application filed by the Party I is bad-in-law and not maintainable, that the Party I was appointed by the management. of the Employer as "Sr. Casino Dealer" in supervisory cadre and duties discharged by him are purely of a supervisory nature and he cannot be construed as 'workman' as defined u/s 2 (s) of the I.D. Act and that the Party I performed essentially and predominantly supervisory, managerial and administrative functions, his duties and functions and his exercise of powers over the subordinates excludes him from the purview of the definition of the 'workman' under the I.D. Act, 1947. The Employer submitted that the grades, scales and allowances applicable to the Party I were of management cadre and as such this Hon'ble Court does not have the jurisdiction to entertain present petition. The burden was therefore cast on the Employer to prove the issue No. 3.

23. While deciding the issue No. 1 hereinabove, I have discussed and come to the conclusion that the Party I failed to prove that he is a 'workman' within the meaning of Section 2 (s) of the I.D. Act, 1947 and as such dispute raised by him is not an industrial dispute as defined u/s 2 (k) of the I.D. Act, 1947. Hence, it is held that the present claim filed by the Party I is liable to be dismissed in view of the preliminary objections raised by the

Employer. The issue No. 3 is therefore answered in the affirmative.

Issue No. 4:

24. While deciding the issue No. 1 hereinabove, I have discussed and come to the conclusion that the Party I failed to prove that he is a 'workman' within the meaning of Section 2 (s) of the I.D. Act, 1947. Similarly, while deciding the issue No. 2 hereinabove, I have discussed and come to the conclusion that the Party I also failed to prove that the Employer contravened the provisions of Section 33 of the I.D. Act, 1947, pending reference bearing No. LC-II/IT/14/17 before this Labour Court II. The Party I is therefore not entitled to any relief.

In view of above, I proceed to pass the following order:

ORDER

1. The present complaint filed by the Party I u/s 33-A of the Industrial Disputes Act, 1947 stands dismissed.
2. The Party I, Shri Sunil Chauhan is not entitled to any relief.
3. No order as to cost.

Inform the Government accordingly.

Sd/-

(Suresh Narulkar),
Presiding Officer,
Labour Court-II.

Notification

No. 28/2/2021-LAB/Part-I/561

The following Award passed by the Labour Court-II, at Panaji-Goa on 27-10-2021 in Case No. LC-II/IT/11/10 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 16th November, 2021.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Suresh N. Narulkar, Hon'ble
Presiding Officer)

Case No. LC-II/IT/11/10

Shri Jeronimo Gomes,
R/o. Toutem, Morod,
P.O. Cansaulim,
Salcette-Goa

.... Workman/Party-I

V/s

M/s Ramada Caravela Beach Resort,
Varca Beach,

Varca, Salcette-Goa Employer/Party-II

Party-I/Workman represented by Ld. Rep. Shri
Subhash Naik Jorge.

Party-II/Employer represented by Adv. Shri M. S.
Bandodkar.

Panaji, Dated: 27-10-2021.

AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 28-06-2010, bearing No. 28/22/2010-LAB, referred the following dispute for adjudication by the Industrial Tribunal of Goa. The Presiding Officer, Industrial Tribunal-cum-Labour Court in turn assigned the present dispute to the Labour Court-II, vide its Order dated 16-08-2010.

“(1) Whether the action of the Management of M/s Ramada Caravela Beach Resort, Varca, Salcette-Goa, in terminating the service of Shri Jeronimo Gomes, Fitter Mechanic, w. e. f. 25-04-2008 is legal and justified?”

“(2) If not, what relief, the Workman is entitled to?”

2. On receipt of the reference, a case was registered under No. LC-II/IT/11/2010 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short 'Workman'), filed his Statement of Claim on 06-12-2010 at Exb. 4. The facts of the case in brief as pleaded by the Workman are that the Employer/Party-II (for short 'Employer') is a five star hotel, having large number of rooms, restaurants and casinos. He stated that the employees of the Employer Hotel are the members of a Trade Union by name Ramada Caravela Hotel Employees Union, hereinafter referred to as '**said union**'. He stated that he was the General Secretary of the said Union for several years. He stated that he was initially employed with the Employer as 'Fitter-Mechanic' since 15th January, 1990 and thereafter promoted as 'Senior Fitter-Mechanic' and finally promoted as 'Shift In-charge'. He stated that he has worked for the Employer Hotel for over 18 years. He stated that he was issued Meritorious Certificates from time to time for his honest and efficient work. He stated that he was not issued any Memo, charge-sheet, etc. except the charge-sheet dated 21-06-2006.

3. He stated that on 25-05-2006, an incident happened in the Employer Hotel after his working hours. He stated that on 24-05-2006, he was working in night shift in the Employer Hotel and his working hour's starts from 10.30 p.m. to 7.30 a.m. of 25-05-2006. He stated that his next shift of working was from 10.30 p.m. of 25-05-2006 to 7.30 a.m. of 26-05-2006. He stated that he did not attend his duty on 25-05-2006 at 10.30 p.m. as he was sick. He stated that at the relevant time, the Employer Hotel was closed for renovation work and the renovation work was in progress.

4. He stated that he was issued a charge-sheet dated 21-06-2006 alleging certain acts of misconduct against him. He stated that in the charge-sheet dated 21-06-2006 issued to him, it was alleged that he had left the shift in the morning of 25th May, 2006 after his duty hours, without handing over charge to the next person and as a result, there was overheating of the Generator. He stated that it was further alleged that overheating of the Generator resulted in loss to the Management. He stated that the charges levelled against him were false as there were persons on duty when he left after finishing his duty. He stated that he had informed before leaving the hotel. He stated that he had replied to the charge-sheet dated 21-06-2006 issued to him vide its letter dated 25-05-2006 by denying the charges levelled against him. He stated that initially, Mr. Sharad Chodnekar, an advocate, was appointed as Ld. Enquiry Officer to conduct the enquiry. He stated that the Employer was represented by Ms. Uma Krishnan in the enquiry. He stated that the said Ms. Krishnan was the Head of the Department of the Employer Hotel. He stated that the said Ld. Enquiry Officer was totally biased in favour of the Employer. He stated that he had complained about the aforesaid fact and therefore, the Employer removed Mr. Sharad Chodnekar and appointed Mr. Prasanna Chawdikar, an advocate to conduct the enquiry against him. He stated that as the said Enquiry Officer was biased in favour of the Employer, he raised an objection for the same. He stated that Mr. Prasanna Chawdikar did not start the enquiry proceedings de novo, but continued the proceedings from where Mr. Chodnekar had left. He stated that no typist was made available to type the proceedings of the enquiry even during the tenure of Mr. Chawdikar as Enquiry Officer, but the Management Representative used to write the enquiry proceedings in her own handwriting and the same was get it typed and made available on the next date of hearing.

5. He submitted that the Employer did not examine any eye witness to the alleged incident during the enquiry proceedings. He submitted that during the enquiry proceedings held on 11-07-2006, the Management Representative, Ms. Krishnan presented the case of the Management. He stated that Ms. Krishnan also recorded her own statement in her own handwriting and got it typed from home on the next date of enquiry proceedings. He stated that Ms. Krishnan would make whatever changes she desired in the typed copies. He stated that the records of the typed copies are not in conformity with the handwritten copies of the enquiry proceedings. He submitted that the enquiry proceedings were held in Panaji and Margao, whereas the Employer hotel is situated at Varca. He submitted that he was not paid travelling expenses to attend enquiry proceedings and to bring his Representative. He submitted that he had examined himself and witnesses in support of his defence in the enquiry. He stated that infact, he wanted to examine more witnesses, but Ld. Enquiry Officer did not allow him to examine the said witnesses by closing his evidence and abruptly conducted the enquiry. He submitted that a copy of the enquiry proceeding held on 06-02-2008 has not been supplied to him. He stated that Ld. Enquiry Officer thereafter submitted his findings dated 19-03-2008 holding him guilty of the charges levelled against him.

6. He submitted that the findings of Ld. Enquiry Officer are perverse and not based on record of the enquiry proceedings. He submitted that the findings of Ld. Enquiry Officer are biased in favour of the Employer without proper application of mind and without any valid reasons. He submitted that Ld. Enquiry Officer could not have arrived at the findings that he is guilty of the charges, when the Employer did not examine any witness in the enquiry. He submitted that the enquiry was conducted in total violation of the principles of natural justice as well as accepted norms of the enquiry. He submitted that the proceedings of the enquiry were recorded by the Management Representative in her own handwriting and typed at her house and the proceedings were furnished to him on subsequent date of enquiry by obtaining the signatures of all the parties. He submitted that there is no evidence on record of the enquiry proceedings to prove the charges of misconduct levelled against him vide charge-sheet dated 21-06-2006.

7. He stated that the Employer hotel has service rules which categorize the misconduct as minor and major misconduct. He stated that the

punishment for minor misconduct has been mentioned as warning, censure and suspension for 7 days. He submitted that neither the Employer produced original documents nor exhibited any document in the enquiry. He submitted that he was shocked to receive letter dated 25-04-2008 from the Employer dismissing him from the services. Aggrieved by the decision of the Employer in wrongly terminating his services, he raised an industrial dispute against the Employer demanding reinstatement in service with full back wages and continuity in service, which ended in failure. He submitted that since the date of termination of his service, he is unemployed and is trying hard to find the job. He submitted that due to the stigma attached to his termination of service, he is not getting jobs in other hotels in the area. He submitted that he is surviving out of savings and support from his family and relatives. He submitted that assuming and without admitting that the charges of misconduct levelled against him are proved, the punishment imposed upon him is highly disproportionate and unjustified taking into consideration the facts and circumstances of the case. He therefore prayed that he be reinstated in service with full back wages and continuity in service.

8. The Employer resisted the claim of the Workman by filing its written statement on 01-03-2011 at Exb. 5. The Employer, as and by way of preliminary objections, submitted that the reference is null and void as no industrial dispute exists as defined u/s 2(k) of the I. D. Act, 1947 and that the reference has been made by the Government of Goa without any material on record, in haste and without application of mind.

9. The Employer however, admitted that the Workman was employed with them as 'Fitter Mechanic' since 15-01-1990 and thereafter promoted as 'Sr. Fitter Mechanic' and again promoted as 'Shift In-charge'. The Employer stated that the Workman was issued a charge sheet dated 21-06-2006 alleging that on the morning of 25-05-2006, he had left the work station after finishing his regular duty hours and without handing over the responsibility of operating the generator to the next person concerned, inspite of personnel from the engineering team being present on duty. It was further mentioned in the charge-sheet dated 21-06-2006 issued to the Workman that the aforesaid act on his part resulted in overheating of the engine and the resultant damage caused to the generator set is to the tune of Rs. 4,50,000/- and that because the generator could not function till conditions required for its proper functioning were rectified,

the entire hotel had to be without power for at least half an hour. It was further mentioned in the charge-sheet that he had absented himself from duty from the night shift on the 25-05-2006 and the operations in the engineering department are suffering due to unauthorized absence. The Employer stated that the Workman was issued a show-cause notice requiring him to submit his explanation in respect of the above said incident. The Employer stated that the explanation submitted by the Workman, vide letter dated 28-05-2006, was not found to be satisfactory. The Employer stated that they have observed that the Workman have remained absent unauthorizedly on 06-01-006, 11-01-2006, 08-03-2006, 09-03-2006, 10-03-2006, 11-03-2006, 16-03-2006, 29-03-2006, 30-03-2006, 31-03-2006, 23-04-2006, 26-04-2006 (for half a day), 13-05-2006, 25-05-2006 and 28-05-2006. It was further alleged that the aforesaid acts alleged against the Workman constitute the following acts of misconduct under the Model Standing Orders:

1. Wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior.
2. Wilful damage to or loss of Employer's goods or property.
3. Habitual absence without leave or absence without leave for more than 10 days.
4. Habitual negligence or neglect of work."

10. The Employer stated that the enquiry was conducted initially by Mr. Sharad Chodnekar and subsequently by Mr. Prasanna Chawdikar. The Employer stated that the Workman was represented by his co-worker and an office bearer of Ramada Caravela Hotel Employees Union. The Employer stated that the enquiry was conducted against the Workman by both the Enquiry Officers in an impartial manner. The Employer stated that every opportunity was given to the Workman to defend the charges of misconduct levelled against him. The Employer stated that Ld. Enquiry Officer submitted his findings dated 19-03-2008 after appreciating the facts of the case. The Employer stated that Ld. Enquiry Officer held the Workman guilty of the charges of misconduct levelled against him. The Employer submitted that it has considered the proceedings of the enquiry and the findings of the Enquiry Officer dated 19-03-2008 and concurred with the same. The Employer submitted that it has considered the past records of the Workman, but did not find any extenuating circumstances. The Employer submitted that considering the gravity of proved misconduct as well as the contents of the

reply dated 08-04-2008 to the show-cause notice issued to the Workman, it has dismissed the Workman from service with immediate effect, vide their letter dated 25-04-2008.

11. The Employer stated that Mr. Sharad Chodnekar was not removed by them, but they rejected the objections raised by the Workman, vide its letter dated 24-03-2007. The Employer stated that they have decided that Mr. Sharad Chodnekar will continue as Enquiry Officer. The Employer stated that it is only on account of the personal difficulty of Mr. Chodnekar, he had decided not to continue as an Enquiry Officer. The Employer stated that the enquiry was thereafter continued by Mr. Prasanna Chawdikar. The Employer admitted that during the enquiry, there was no typist. The Employer stated that it was mutually decided to record the proceedings in hand and get it typed on the next date of hearing. The Employer stated that the aforesaid fact has been recorded by Ld. Enquiry Officer in the enquiry proceedings from time to time. The Employer admitted that the enquiry proceedings were recorded in the handwriting of Ms. Krishnan, the Head of Personnel department as well as Management Representative and copy of the original handwriting was taken by Ms. Krishnan, after the conclusion of the enquiry proceedings. The Employer further admitted that on the next date of enquiry, the signatures of all the parties were obtained, after being duly verified by them alongwith Ld. Enquiry Officer. The Employer stated that the original handwritten copies were destroyed after obtaining signatures of all the parties on the typed copies. The Employer stated that the Workman was given the carbon copy of the proceedings of the enquiry. The Employer stated that the Workman as well as his Representative have recorded their signatures on the said proceedings in approval and confirmation and hence cannot now resile from the same. The Employer stated that after Mr. Prasanna Chawdikar took over as Enquiry Officer, he started conducting the enquiry at Margao-Goa. The Employer further admitted that Mr. Chawdikar did not start the enquiry proceedings de novo, but continued the enquiry proceedings from where Mr. Chodnekar had left. The Employer submitted that the Employer destroyed the said original handwritten records of the enquiry proceedings and as such the same cannot be produced. The Employer stated that the fact of such destruction of the proceedings have been recorded in the enquiry from time to time.

12. The Employer submitted that the testimony of eye witness to the incident alleged against the Workman is not the only basis on which he could

be held guilty. The Employer submitted that the documentary and circumstantial evidence produced at the enquiry is sufficient to hold the Workman guilty of the charges leveled against him. The Employer submitted that the Workman was not entitled to the travelling expenses to attend enquiry and to bring his representative. The Employer stated that the Workman had examined four witnesses on identical facts and wanted to produce more witnesses to depose on the said facts. The Employer stated that Ld. Enquiry Officer, Mr. Chawdikar, vide his order dated 29-01-2008 disallowed the Workman to examine more witnesses. The Employer admitted that after the enquiry proceedings held on 29-01-2008, the next date of enquiry was fixed on 06-02-2008 at 3.30 p.m. The Employer denied that the findings submitted by Ld. Enquiry Officer are perverse and not based on records of the enquiry proceedings. The Employer denied that the enquiry was conducted in total violation of the principles of natural justice as well as accepted norms of conducting an enquiry. The Employer denied the overall case of the Workman as pleaded in his statement of claim. The Employer submitted that the Workman is gainfully employed from the date of his dismissal from service and prayed for dismissal of the present reference.

13. Thereafter, the Workman filed his Re-joinder on 05-04-2011 at Exb. 6. The Workman, by way of his Re-joinder, denied each and every statement, averments and submissions made by the Employer vide their Written Statement filed in the present proceedings and reiterates and confirms the statements, averments and submissions made by him in his statement of claim. The Workman stated that the written statement filed by Shri Vinesh Gupta on behalf of the Employer is null and void as the said Shri Vinesh Gupta is not authorized to sign the said written statement on behalf of the Employer. The Workman stated that Ld. Enquiry Officer obtained the signatures of the Workman on the typed proceedings by misrepresentation and by his ignorance.

14. Based on the pleadings filed by the respective parties this Hon'ble Court framed the following issues on 18-04-2011 at Exb. 7.

1. *Whether a fair, proper and impartial enquiry has been conducted against the Party I in consonance with the principles of natural justice?*
2. *Whether the charges of misconduct leveled against the party-I have been proved by acceptable evidence to the satisfaction of this court?*

3. *Whether the Workman/Party I proves that the action of the Employer/Party II in terminating the services of the Workman/Party I w.e.f. 25-04-2008 is illegal and unjustified?*

4. *Whether the Employer/Party II proves that the present order of reference is null and void in view of preliminary objection raised in para (i) and (ii) of the Written Statement?*

5. *Whether the Party I is entitled to any relief?*

6. *What Order? What Award?*

15. My answers to the aforesaid issues are as under:

- | | |
|-----------------------|-----------------------|
| (a) Issue No. 1 | : In the negative. |
| (b) Issue No. 2 | : In the negative. |
| (c) Issue No. 3 | : In the negative. |
| (d) Issue No. 4 | : In the negative. |
| (e) Issue No. 5 and 6 | : As per final order. |

Both parties have filed their synopsis of written arguments respectively. I have carefully perused the entire records of the present case. I have also carefully considered the submissions made therein.

REASONS

Issue No. 1 and 2:

16. Vide order dated 19-04-2013, passed in my findings on preliminary issue No. 1 and 2, I have discussed and come to the conclusion that the domestic enquiry held against the Workman/Party I is not fair and proper and hence, the enquiry is set aside. The issue No. 1 and 2 are therefore answered in the negative.

Issue No. 3:

17. While deciding the issue No. 1 and 2 hereinabove, I have discussed and come to the conclusion that the domestic enquiry held against the Workman/Party I is not fair and proper and hence, the enquiry is set aside. The Employer therefore, led fresh evidence before this Hon'ble Court by examining its two witnesses namely, Shri Eric Pereira, its Project Management Consultant and Smt. Uma Krishnan, its Sr. Manager, HR and IR of Minescape Minerals Pvt. Ltd. The evidence adduced by the management by examining Ms. Uma Krishnan and Mr. Eric Pereira is corroborative to each other. On the contrary, the Workman examined himself and two other witnesses namely, Shri Arun Salunke r/o Karwar and Shri Gurudas Verlekar r/o. Fatorda, Goa in support of his defence. The evidence of the Workman in defence is uncorroborative and untrustworthy.

18. By charge-sheet dated 21-06-2006, the Workman was issued a charge-sheet and it reads as under:

“(a) On the morning of the 25th of May, 2006, you had left your work station after finishing your regular duty hours and without handing over the responsibility of operating the generator to the next person concerned – inspite of personnel from the engineering team being present on duty. This resulted in overheating of the engine and the resultant damage caused to the generator set is to the tune of Rs. 4,50,000/-. Further, because the generator could not function till conditions required for its proper functioning were rectified, the entire hotel had to be without power for at least half an hour.

(b) Secondly, you have absented yourself from duty for the night shift the 25th of May, 2006. The operations in the Engineering department are suffering due to your unauthorised absence.”

You were issued a show cause notice requiring you to submit your explanation in respect of the above said incident. You submitted an explanation dated 28th May, 2006. We do not find your explanation satisfactory.

It has been also observed that you have remained absent unauthorisedly on the following days – 6th of January, 2006, 11th of January, 2006, 8th of March, 2006, 9th of March, 2006, 10th of March, 2006, 11th of March, 2006, 16th of March, 2006, 29th of March, 2006, 30th of March, 2006, 31st of March, 2006, 23rd of April, 2006, 26th of April, 2006 (for half a day), 13th of May, 2006, 25th of May, and 28th of May, 2006.

The acts of misconduct alleged against you constitute the following acts of misconduct under Model Standing Orders:

- (a) Wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior.*
- (b) Wilful damage to or loss of Employer's goods or property.*
- (c) Habitual absence without leave or absence without leave for more than 10 days.*
- (d) Habitual negligence or neglect of work.*

19. Undisputedly, the Workman was working as a supervisor/shift in-charge in the Employer hotel. The Workman was issued a show-cause notice dated 25-05-2006 (Exb. 24) alleging the said acts as stated

in para (a) and (b) of the said charge-sheet dated 21-06-2006 (Exb. 64). The Workman filed his reply dated 28-05-2006 (Exb. 25) to the aforesaid showcause notice issued to him. Thereafter, the Workman was issued a charge-sheet dated 21-06-2006 at Exb. 64 and hold enquiry against him. The Workman however, did not file any reply to the aforesaid charge-sheet.

20. Indisputedly, the Workman was drafted for duty in the third shift of 24-05-2006 to be started at 10.30 p.m. and ended on 7.30 a.m. of 25-05-2006. The evidence on record indicates that it was an understanding that they should work till 9.00 a.m. of 25-05-2006. The Workman left the hotel premises at 6.34 a.m. of 25-05-2006. The Workman admits that it was his duty to attend the generator by looking after water, diesel, oil, battery as well as to verify the said generator is giving power. The Workman admits that he did not wait till 9.00 a.m. as per the instructions of Mr. Victor, Engineering Executive. The Workman also did not handover the charge to the next shift in-charge/Supervisor of first shift of 25-05-2006 nor obtained prior permission from competent authority of the Employer to leave the hotel early. As per the reply of the Workman at Exb. 25, he requested and informed Mr. Anthony, the Electrician that he is going early to attend his uncle's first death anniversary mass. It is pertinent to note that in the past, the Workman was given verbal warning when he left the Employer hotel without handing over the charge to the next supervisor who had not joined duty of first shift on 23-05-1999 thereby leaving the Engineering department in the hands of one electrician, in pursuance to the letter dated 24-05-1999 of Shri B. S. Negi to Shri Satyajit Patnaik (Exb. 37). The evidence on record indicates that the generator operations remained unattended, got overheated and stopped functioning. Due to overheating of the generator, the unit was heavily damaged and had to send for necessary repairs. The evidence on record indicates that the generator was repaired from Western India Service Centre, Madkai, Ponda on 27-06-2006 and due to the above, the loss caused to the Employer was Rs. 4,25,413/-. The aforesaid acts on the part of the Workman amounts to disobedience to any lawful and reasonable order of a superior as well as loss of Employer's goods or property. The aforesaid act on the part of the Workman also proves the negligence of the Workman.

21. The Workman was also charged for habitual absence without leave or absence without leave for more than 10 days. The evidence on record indicates that the Workman remained

unauthorizedly absent without leave or intimation on 06-01-2006, 11-01-2006, 08-03-2006, 09-03-2006, 10-03-2006, 11-03-2006, 16-03-2006, 29-03-2006, 30-03-2006, 31-03-2006, 23-04-2006, 26-04-2006 (for half a day), 13-05-2006, 25-05-2006 and 28-05-2006. The Workman did not give any explanation of the aforesaid days of absence except 25-05-2006. The explanation given by the Workman for his absence on 25-05-2006 of his transport difficulty. The Workman was shown his leave card at Exb. 40, wherein it has been written that the leave for 25-05-2006 has not been sanctioned by writing "not granted, absent without intimation" by the leave sanctioning authority. The aforesaid evidence on record clearly indicates that the Workman remained absent unauthorizedly for around 14 and half day from January, 2006 till May, 2006 without intimation or prior permission. Therefore, it is proved that the said acts on the part of the Workman is habitual absence without leave. Hence, it is held that the Employer proved that all the four charges levelled against the Workman have been proved to the satisfaction of this court by acceptable evidence.

22. *Ld. Rep. Shri Subhash Naik*, relied upon a judgment in the case of **Roop Singh Negi v/s. Punjab National Bank and Ors., reported in (2009) SCC 570** of Hon'ble Supreme Court of India, in support of his contention that the Employer failed to prove the charges of misconduct. The facts of the present case are totally different than the aforesaid case before the Hon'ble Apex Court and as such the principle laid down by the Hon'ble Apex Court is not applicable to the case in hand.

23. The Employer is having its House Rules and Service Conditions at Exb. W/11. It appears that the said House Rules and Service Conditions has not been certified by the Certifying Authority and the Employer has issued a charge-sheet at Exb. 64 under the Model Standing Orders and as such a Model Standing Orders is applicable to the case in hand. The evidence on record indicates that the evidence on record indicates that all the charges proved against the Workman are grave and serious.

24. The evidence on record indicates that the Workman joined in the services of the Employer as a 'Fitter Mechanic' since 15-01-1990 and thereafter promoted as 'Sr. Fitter Mechanic' and again promoted as 'Shift In-charge'. The Workman was issued certificate of appreciation of long service of 5 years, 9 years, 10 years, 11 years and 13 years. He was also awarded a certificate of merit in the year 1990-1995 and certificate of

appreciation. The union, vide its letter dated 24-08-1995 (Exb. 34) addressed to the Personnel Manager of the Employer informed that the Workman, Shri Joaquim D'Costa and Shri Francis Gonsalves have been elected as office bearers of the said union.

Vide letter of the Employer dated 26-08-1995 (Exb. 33) addressed to the office bearers of the said union, it has been brought to the notice that some of you, have been found to be remiss in the performance of your duty as also in the specific instance of insubordination and disobedience and therefore directed to ensure that you are correctly informed of your obligations. Vide letter dated 02-01-1997 (Exb. 35), the Workman was warned for his acts of indiscipline of remaining absent without any permission from 21-12-1996 to 01-01-1997, no off and weekly off could be taken and that on 31-12-1996 is new year eve, where the Engineering department work round clock. Vide letter of the Employer dated 21-11-1997 (Exb. 56) addressed to the Workman, he was directed to join duty immediately on receipt of the said letter failing which they would be constrained to accept that you have abandoned your job and strike out your name from the company's roll in line with the House Rules and Service Conditions applicable to him by pointing out his attendance record that he has overstayed his sanctioned leave without any information/intimation from 14-11-1997 till issuance of the said letter.

25. Vide inter office memo dated 24-05-1999 issued by Shri B. S. Negi to Mr. Satyajit Patnaik (Exb. 37) informed that the Workman remained absent without leave from 16-05-1999 and joined his duty on 22-05-1999 (third shift) and left without handing over to the next supervisor who had not joined duty (first shift on 23-05-1999) thereby leaving the Engineering department in the hands of one electrician by observing that the Workman has behaved in a very irresponsible manner and he, being the Union President, he is expected to set examples for others. The Workman was therefore given a verbal warning on his request to Mr. Negi and disciplinary action had postponed. Vide letter of the Employer dated 18-04-2006 (Exb. 38) addressed to the Workman, he was informed that he has been verbally warned by his department head that his attendance is erratic and not in order and that he has been absenting himself from duty at his own whims and fancy and that hampers daily operations and the smooth functioning of the department. It is further stated that the Workman was also issued a memo by his department head on 30-01-2006 for his remaining absent without information and that in spite of the above his

attendance for March, 2006 has been very poor and they have received an intimation from the department regarding his irregularities. The Workman was therefore warned at last that his irresponsible behaviour cannot be entertained and further instructed that if he remains absent without information or have an erratic attendance record, stern disciplinary action would be initiated and that he was instructed to discharge his responsibilities with zeal and dedication and take up the responsibilities as one of the most senior members of the team.

26. The Workman was issued show-cause notice dated 26-03-2008 at Exb. W/16 directing him to show cause within seven days of the said notice as to why he should not be dismissed from service. The Workman filed his reply to the said show-cause notice, vide its reply dated 08-04-2008. The Workman was thereafter issued a letter of dismissal dated 25-04-2008 at Exb. W/15.

27. Ld. Rep. Shri Subhash Naik, representing the Workman submitted that the punishment of dismissal imposed on the Workman is highly disproportionate and relied upon a judgment of Hon'ble High Court of Jammu and Kashmir, in the case of **Bashir Ahmed Khan v/s. Union of India and Ors., passed on 18-08-2021**. The principle laid down by the Hon'ble High Court of Jammu and Kashmir in its aforesaid case is not applicable to the case in hand as the facts of the case before the Hon'ble High Court of Jammu and Kashmir is totally different than the case in hand.

28. On the contrary, Ld. Adv. Shri M. S. Bandodkar, representing the Employer submitted that the punishment of dismissal imposed on the Workman for the proved grave and serious misconduct is just, fair and proper and that it does not shock the judicial conscience of the court and relied upon two following judgments of the Hon'ble High Court of Bombay.

29. One, in the case of **Dinkar Murlidhar Anap v/s. Maharashtra State Road Transport Corporation through its Divisional Controller, reported in 2016 LLR 226**, the Petitioner was appointed as bus conductor in 1993 and was issued a charge-sheet with reference to ticketless passengers travelling on his bus on 02-08-1997. The Petitioner was dismissed from service after holding enquiry. The Industrial Court confirmed the punishment awarded to the Petitioner. The Petitioner challenged said judgment and order of the Industrial Court by filing writ petition before the Hon'ble High Court of Bombay. The Hon'ble High Court of Bombay dismissed the said writ

petition filed by the Petitioner by observing in para 18 of its judgment as under:

"18. With having settled the issue as above, I am required to look into whether, the punishment awarded to the Petitioner could be set to be shockingly disproportionate. It is trite law that merely because the punishment may appear to be disproportionate would not call for any interference by the courts. The punishment has to appear shockingly disproportionate so as to shock the judicial conscience of the court. Such punishment should appear to be an outrageous defiance of moral standard and logic".

30. Another, in the case of **Niraj Kumar Singh v/s. Union Bank of India and Anr., reported in 2008 LLR 209**, the Hon'ble High Court of Bombay held as under:

"14. In the light of the well-established principles of law and the seriousness of the article of charges proved against the petitioner, it is difficult for this Court to hold that the view taken by the authorities below in imposing the punishment of dismissal from service is shockingly disproportionate or would shock the judicial conscience of the Court. The relationship of the Bank and its customer is relationship of great faith and any small dent to this relationship de hors the quantum of amount unauthorizedly withdrawn is likely to have adverse effects of wide magnitude upon the business of the bank. The Appellate Authority considered the contentions raised on behalf of the petitioner in its correct perspective and we are unable to find any error of jurisdiction in the orders passed by the respective respondents. We have also noticed that the enquiry was held in consonance with the prescribed procedure and principles of natural justice".

The principle laid down by the Hon'ble High Court of Bombay in its aforesaid case is applicable to the case in hand.

31. In the case in hand, though the Workman was in the services of the Employer as fitter mechanic since 15-01-1990 and thereafter promoted as Sr. Fitter Mechanic and again as Shift In-charge. The Workman was also issued certificates for his long service in the organisation of the Employer. In the past, the Workman was issued warnings for three times for his misconducts. The Workman was found guilty of the charges of misconduct levelled against him and imposed a punishment of dismissal from service by issuing show-cause notice to him. In my considered opinion, the misconduct proved

against the Workman are grave and serious, causing loss to the Employer. The punishment of dismissal imposed upon the Workman does not appear to be shockingly disproportionate to shock the judicial conscience of the court. The punishment of dismissal imposed upon the Workman is just, fair and proper and this court shall not interfere with the punishment imposed on the Workman.

In view of above, it is held that the Workman failed to prove that the action of the Employer in terminating his services w.e.f. 25-04-2008 is illegal and unjustified. The issue No. 3 is therefore answered in the negative.

Issue No. 4:

32. The Employer, as and by way of its preliminary objections, submitted that the reference is null and void as no 'industrial dispute' exists as defined u/s 2 (k) of the I.D. Act, 1947 and that the reference has been made by the Government of Goa without any material on record, in haste and without application of mind. The burden to prove the said allegations is therefore on the Employer.

33. Section 2 (k) of the I.D. Act, 1947 defines 'Industrial Dispute' and it means, "*the term 'industrial dispute' has been defined u/s 2 (k) of the I.D. Act, 1947 and it means any dispute of difference between Employers and Employers, or between Employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person*". In the case in hand, it is not in dispute that the Party I is a 'Workman' within the meaning of Sec. 2 (s) of the I.D. Act, 1947. Therefore, the present dispute raised by the Workman pertaining to his non-employment w.e.f. 25-04-2008 is an 'industrial dispute' within the meaning of Sec. 2 (k) of the I.D. Act, 1947. The Employer has also not produced on record any material to substantiate its statement that the reference has been made in haste and without application of mind. Hence, it is held that the Employer failed to prove that the present order of reference is null and void in view of the preliminary objections raised in para (i) and (ii) of the written statement. The issue No. 4 is therefore answered in the negative.

Issue No. 5:

34. While deciding the issue No. 3 hereinabove, I have discussed and come to the conclusion that the Workman failed to prove that the action of the Employer in terminating his services w.e.f. 25-04-2008 is illegal and unjustified. The Workman

is therefore not entitled to any relief.

In view of the above, I proceed to pass the following order:

ORDER

1. It is held that the action of the Management of M/s Ramada Caravela Beach Resort, Varca, Salcette-Goa, in terminating the service of Shri Jeronimo Gomes, Fitter Mechanic, w. e. f. 25-04-2008 is legal and justified.

2. The Workman, Shri Jeronimo Gomes, is not entitled to any relief.

3. No order as to costs.

Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar),
Presiding Officer,
Labour Court-II.

Notification

No. 28/2/2021-LAB/Part-I/563

The following Award passed by the Labour Court-II, at Panaji-Goa on 25-10-2021 in Case No. Ref. LC-II/IT/16/2019 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 16th November, 2021.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Suresh N. Narulkar, Hon'ble
Presiding Officer)

Case No. Ref. LC-II/IT/16/2019

Shri Diago Lucas (since deceased),

Through his legal heirs:

1. Smt. Rosita Privia Gama and

2. Ms. Dasha Lucas

Rep. by the General Secretary,

Gomantak Mazdoor Sangh,

Tisk, Ponda-Goa

..... Workman/Party-I

V/s

M/s. Indoco Remedies Limited,

L-14, Verna Industrial Estate,

Verna-Goa

.... Employer/Party-II

Workman/Party-I represented by Shri P. Gaonkar.

Employer/Party-II Represented By Adv. Shri G. K. Sardessai.

Panaji, Dated: 25-10-2021.

AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 10-12-2019, bearing No. 28/32/2019-LAB/814, referred the following dispute for its adjudication to this Labour Court-II of Goa at Panaji-Goa.

"(1) Whether the action of the management of M/s. Indoco Remedies Limited, L-14, Verna Industrial Estate, Verna, Goa, in refusing employment to Shri Diago Lucas, Operator, with effect from 16-07-2018, is legal and justified?"

(2) If not, what relief, the Workman is entitled to?"

2. On receipt of the reference, a case was registered under No. LC-II-IT/16/2019 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short 'Workman'), filed his Statement of Claim on 17-02-2020 at Exb. 4. The facts of the case in brief as pleaded by the Workman are that he was initially employed as an 'Operator' by the Employer/Party-II (for short 'Employer') since 1999. He stated that in the month of April, 2018 and May, 2018, he was forced to remain at home due to sickness of his wife. He stated that he had sent an intimation to his co-worker that he is unable to attend the duties due to major sickness of his wife. He stated that in the first week of June, 2018, he went to report for duty, but he was asked to submit detailed reply and tender apology. He stated that on receipt of the apology, he was allowed to resume duty from 18-06-2018.

3. He stated that he had obtained a loan from the bank and cheques were given towards the repayment of the loan instalments. He stated that the said cheque was dishonoured due to insufficient funds in his account. He stated that a case was filed u/s. 138 N.I. Act. He stated that he was arrested and remained in the custody. He stated that after releasing from the custody, he went to resume the duty in the first week of July, 2018. He stated that initially, the HR Manager informed him to join duty after two days as he will consult the head office and will inform about his resuming the work. He stated that inspite of several oral request, he was not allowed to resume duty. He stated that on

16-07-2018, he went to resume duty and submitted his letter. He stated that as he was not allowed to resume the duty, he raised an industrial dispute before the Dy. Labour Commissioner, Panaji through his union, vide its letter dated 30-08-2018. He stated that on receipt of the notice of the conciliation proceedings, the management has issued him a suspension order from 27-10-2018. He stated that he was refused employment from 16-07-2018. He stated that as he raised the dispute in August, 2018, he was issued a suspension order to come out from the dispute of refusal of employment.

4. He submitted that neither the management has issued to him any charge-sheet nor conducted enquiry against him before refusal of employment. He submitted that before refusing the employment, the management has not conducted any enquiry nor followed the principles of natural justice. He submitted that before refusal of his employment, the management has not complied with Section 25-F, 25-H and 25-G of the I.D. Act, 1947 and violated the provisions of law in force. He submitted that the Employer is employing more than 200 workers in the said factory and hence, Chapter V-B of the I.D. Act, 1947 is applicable to the Employer. He submitted that before refusal of his employment, the management has not obtained any permission for retrenchment as required u/s 25-N of the I.D. Act, 1947. He submitted that the refusal of employment to him is illegal, unjustified and bad-in-law. He submitted that he is entitled for reinstatement with full back wages and continuity service. He submitted that he is unemployed since illegal refusal of his employment and has not been able to find any suitable job despite his efforts. The Workman therefore, prayed that this Hon'ble Tribunal be declared that the refusal of employment is illegal, improper and unjustified and direct the Employer to reinstate him with full back wages and continuity in service with consequential benefits.

5. The Employer resisted the claim of the Workman by filing its written statement on 08-06-2020 at Exb. 5. The Employer, as and by way of its preliminary objections, submitted that the reference is not maintainable and bad-in-law as it is not an 'industrial dispute' as defined under the I.D. Act, 1947 and that there is non-application of mind by the Appropriate Government while referring the present dispute.

6. Without prejudice to its aforesaid contention, the Employer stated that it is engaged in the manufacturing of pharmaceuticals and has its factory at Verna Industrial Estate, Verna-Goa. The

Employer stated that the Workman was employed with them since November, 1999. The Employer stated that the Workman remained absent from duty on 02-04-2018, from 04-04-2018 till 28-04-2018, 02-05-2018, 04-05-2018, 05-05-2018 and from 09-05-2018 till 31-05-2018. The Employer stated that since the work was affected due to unauthorized absence of the Workman, a letter dated 26-05-2018 was sent to the residential address of the Workman by registered A/D, by instructing him to resume duty within 48 hours from the receipt of the said letter with proper written explanation. The Employer stated that on 04-06-2018, the Workman reported at their gate without giving any justified explanation to their letter dated 26-05-2018 for his prolonged absence from work. The Employer stated that the Workman was asked to submit the explanation for his unauthorised absence. The Employer stated that since the Workman had not submitted any explanation, the Workman was given a second copy of the said letter dated 26-05-2018 on 04-06-2018, so that he can give explanation on the said letter. The Employer stated that the Workman submitted his reply dated 04-06-2018, wherein he claimed that his wife was seriously sick and had undergone major surgery. He stated that he was compelled to remain absent during the said period to attend to his wife and take care of the house and children. The Employer stated that the management was not satisfied with the said explanation and therefore the Workman was asked to produce documentary proof to show that his wife was sick. The Employer stated that the Workman failed to produce the necessary evidence of sickness of his wife.

7. The Employer stated that on 18-06-2018, the Workman reported for work and submitted a letter dated 18-06-2018, apologizing for not submitting medical proof of his wife's sickness. The Employer stated that the Workman claimed that the said reports were misplaced and that he had requested Goa Medical College for duplicate copies of the documents which they are not ready to handover. The Employer stated that thereafter, from 18-06-2018 to 29-06-2018, the Workman performed his duties and from 30-06-2018 he continuously remained absent without intimation and/or information. The Employer stated that the Workman submitted his letter dated 16-07-2018 requesting them to allow him to resume duty. The Employer stated that however, they received information about serious charges of offence have been levelled against the Workman by the Superintendent of Civil and Criminal Court, Vasco. The Employer stated

that since the said offence amounts to moral turpitude, the Workman was asked to get a clearance letter from the said authorities, so that he can resume duty.

8. The Employer stated that they are in the field of manufacturing 'lifesaving drugs' which are certified by various overseas regularity authorities. The Employer stated that any stigma on any employee can totally prejudice not only their reputation but also create non-compliance of this regularity authorities, resulting financial impact on business. The Employer stated that therefore, the Workman was asked to get clearance letter from the (State Authority) Superintendent of Civil and Criminal Court, Vasco. The Employer stated that surprisingly, instead of getting a clearance letter, the Workman submitted a letter dated 29-08-2018 claiming reinstatement with full back wages and continuity of service.

9. The Employer stated that on 30-08-2018, the Gomantak Mazdoor Sangh (GMS) made a representation before the Labour Commissioner for intervention in the matter of refusal of employment to the Workman. The Employer stated that after going through the said letter of GMS, it was observed that the General Secretary of the union had made some false and mischievous allegations against them about refusal of employment to the Workman. The Employer stated that after discussions held before the ALC, they filed their reply dated 18-01-2019 denying the allegations made therein. The Employer stated that as there was no possibility of any amicable settlement, the failure of conciliation was recorded on 27-08-2019.

10. The Employer stated that by letter dated 31-08-2018, the Employer sought information under RTI Act from the Vasco Police Station regarding FIR No. 81/2018 filed by Mr. Arvind S. Redkar (Superintendent of Civil and Criminal Court, Vasco) against the Workman u/s. 465, 468, 471, 419 and 205 of IPC dated 30-06-2018. The Employer stated that on 05-09-2018, they received the information sought from the office of Sub-Divisional Police Officer, Vasco. The Employer stated that a criminal complaint was filed against the Workman for cheating by appearing before the Court as Mr. Martinho Jose Xavier leading to impersonation, in criminal case No. OA/182/NIA/2017/A (VPK Urban Co-op. Credit Society Ltd. v/s. Martinho Jose Xavier). The Employer stated that they therefore, issued a show cause notice dated 25-10-2018 for the acts of misconducts as per its Certified Standing Orders to the Workman by registered post A/D and subsequently considering the seriousness in the

matter, a suspension order pending enquiry dated 27-10-2018 was issued to the Workman. The Employer stated that the Workman filed his reply to the show-cause notice on 05-11-2018 and since the Employer having found the reply unsatisfactory, issued a charge-sheet dated 30-01-2019 to the Workman. The Employer stated that the enquiry proceedings with respect to the said charge-sheet was initiated on 30-01-2019 and is presently pending. The Employer stated that since its management has already initiated disciplinary proceedings against the Workman for acts of misconducts and the management has not refused the employment to the Workman, as such, no case of 'industrial dispute' is made out by the Workman. The Employer denied the overall case as pleaded by the Workman and submitted that the Workman is not entitled to any relief as prayed for in his claim statement and therefore, reference may please be rejected.

11. Thereafter, the Workman filed his Re-joinder dated 15-01-2021 at Exb. 6. The Workman, by way of his Re-joinder, confirms and reiterates all the submissions and averments made by him in his claim statement to be true and correct and denies all the statements and averments made by the Employer in its Written Statement, which are contrary to the statements and averments made by him.

12. Based on the pleadings, filed by the respective parties hereinabove, this Hon'ble Court framed the following issues on 29-01-2021 at Exb. 7.

1. Whether the Workman/Party I proves that he was refused employment by the Employer/Party II w.e.f. 16-07-2018?
2. Whether the Workman/Party I proves that the action of the Employer in refusing him employment w.e.f. 16-07-2018, is illegal and unjustified?
3. Whether the Employer/Party II proves that the reference is bad-in-law in view of the reasons stated in para (a) and (b) of its written statement?
4. Whether the Workman is entitled to any relief?
5. What order? What award?

13. Thereafter, the matter was fixed for evidence of the Workman. The Workman also filed his affidavit in evidence. The Hon'ble Court also recorded his examination in chief and the case was fixed for cross-examination by the Employer. It is at this stage, Ld. Rep. Shri P. Gaonkar, representing the Workman submitted that the Workman has been expired and

filed an application for bringing his legal heirs on record. The said application filed by Ld. Rep. Shri P. Gaonkar has been allowed.

14. On 12-08-2021, Ld. Rep. Shri P. Gaonkar representing the deceased legal heirs of the Workman as well as Ld. Adv. Mrs. N. Gaonkar appearing for the Employer remained present and orally submitted that the matter is likely to be settled amicably between the parties and sought time. Accordingly, on 19-10-2021, Ld. Rep. Shri P. Gaonkar representing the deceased legal heirs of the Workman as well as Ld. Adv. Mrs. N. Gaonkar appearing for the Employer remained present. Both the representatives submitted that they have settled the matter amicably between the parties hereinabove and prayed for disposing off the reference as consent award. The parties produced on record a copy of the terms of settlement duly signed by both the parties along with their respective representatives which is on record at Exb. 22. The terms of settlement as settled between the parties are reproduced herewith.

1. The management agrees to pay to the legal heirs of Mr. Diago Lucas, Smt. Rosita Privia Gama a sum of Rs. 9,55,000/- (Rupees nine lakhs fifty five thousand only) in full and final settlement of all his claims including gratuity, by cheque No. 288718 dated 16-08-2021 drawn on HDFC Bank.
2. Accordingly, Smt. Rosita Privia Gama, the legal heir of Mr. Diago Lucas, agrees to accept the payment and not to pursue any dispute raised individually or through any union before any Tribunal, Court, Authority or Forum and agrees that in the event of such dispute being raised that the same shall be treated as withdrawn/settled.
3. It is agreed between the parties that this settlement shall be filed before the Labour Court in LC-II/IT/16/2019 for a consent Award/Order. The Management also agrees to close the disciplinary proceedings/enquiry initiated against Mr. Diago Lucas.
4. Smt. Rosita Privia Gama, the legal heir of Mr. Diago Lucas, agrees to settle all the dues of the Banks or other Financial Institutions or any borrowings by the deceased Mr. Diago Lucas and agrees to indemnify the Company as against any claims of whatsoever nature as against the above said amount paid to the deceased.
5. It is agreed between the parties that on

payment of the said amount, the parties shall have no claim of whatsoever nature against each other and all the matters of late Mr. Diago Lucas are conclusively settled.

I have carefully perused the said terms of settlement at Exb. 22 signed by and between the parties hereinabove. The said terms of settlement are beneficial to both the parties. Hence, I consented for the same. Since the dispute under reference is settled between the parties, I hold that the dispute under present reference does not survive.

In view of the above, I proceed to pass the following order:

ORDER

1. It is held that action of the management of M/s. Indoco Remedies Limited, L-14, Verna Industrial Estate, Verna, Goa, in refusing employment to Shri Diago Lucas, Operator, with effect from 16-07-2018, is legal and justified, does not survive.
2. The Workman, Shri Diago Lucas, Operator, is not entitled to any relief.
3. No order as to costs.

Inform the Government accordingly.

Sd/-
(Suresh N. Narulkar),
Presiding Officer,
Labour Court.

Department of Law & Judiciary

Law (Establishment) Division

Order

No. 1/7/2014-LD(Estt.)/2582

Government of Goa is pleased to accept the resignation tendered by Adv. Ankita Avdhut Kamat as Additional Government Advocate before the Hon'ble High Court of Bombay at Goa, Panaji with effect from 30-11-2021.

Adv. Ankita A. Kamat shall return all the briefs pending with her if any, to the Office of Ld. Advocate General, Porvorim, Panaji under intimation to this Department.

By order and in the name of the Governor of Goa.

Amir Y. Parab, Under Secretary (Law-Estt.).

Porvorim, 23rd December, 2021.

Department of Panchayati Raj & Community Development

Directorate of Panchayats

Notification

No. 17/22/DP-ACCTS/IIISFC/2021-22/8908

In exercise of the powers conferred by sub-section (2) of Section 199 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994) and in supersession of Government Notification No. 26/DP/III.S.F.C./2016/7858 dated 28th December, 2016 published in the Official Gazette, Series II No. 40 dated 05-01-2017, the Government of Goa is pleased to constitute afresh "The Third State Finance Commission" consisting of the following members, namely:-

Third State Finance Commission:

- | | | |
|--|---|-----------|
| 1. Shri D. A. Hawaldar | — | Chairman. |
| 2. Shri Gurunath Potekar | — | Member. |
| 3. Dr. Y. Durgaprasad, | — | Member. |
| Director of Planning,
Statistics & Evaluation | | |

In addition to above, Director (Municipal Administration), Director (Panchayats), Joint Secretary/Additional Secretary (Finance) and Director (Accounts) shall be invitees to the State Finance Commission.

Dr. Y. Durgaprasad shall act as Member Secretary of the Commission.

Term of Office of the Chairman and Members:

The Chairman and the Members shall initially hold full time office for a period of one year and submit its report before expiry of its term.

Conditions of service, salaries and allowances of the Chairman and Members:

The salaries or fee or honorarium or other such allowances shall be fixed by the Government in consultation with the Finance Department.

Terms of Reference:

1. The State Finance Commission shall make recommendation to the Governor as to:-
 - (a) the principles which should govern -
 - i. the distribution between the State and the local bodies of the net proceeds of the taxes, tolls and fees leviable by the State, which may be divided between them under this part and the allocation between these bodies at all levels of their respective shares of such proceeds;
 - ii. the determination of the taxes, duties, tolls and fees which may be designed to, or appropriated by the local bodies;

- iii. the grants-in-aid to the local bodies from the Consolidated Fund of the State;
- (b) the measures needed to improve the financial position of the local bodies; and
- (c) Any other matter referred to the Finance Commission by the Governor in the interest of sound finance of local bodies.

By order and in the name of the Governor of Goa.

Siddhi Halarnkar, Director & ex officio Joint Secretary (Panchayats).

Panaji, 31st December, 2021.

Department of Personnel

Order

No. 5/1/2021-PER/3266

Read:1) Order No. 6/16/2013-PER/Part dated 21-04-2021.

2) Order No. 6/16/2013-PER/Part/431 dated 06-02-2020.

In terms of Rule 28 of the Goa Civil Service Rules, 2016 and on the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/12/42(1)/2021/453 dated 14-12-2021, the Governor of Goa is pleased to declare the following Junior Scale Officers of Goa Civil Service, to have satisfactorily completed their period of probation in Junior Scale of Goa Civil Service and confirmed in the grade with effect from the date of their completion of probation period as mentioned against their names below:-

Sr. No.	Name of the probationer	Date of completion of probation period
1.	Shri Tushar Halarnkar	24-11-2021.
2.	Shri Vishal Kundaikar	24-11-2021.

By order and in the name of the Governor of Goa.

Meghana Shetgaonkar, Joint Secretary (Personnel).
Porvorim, 20th December, 2021.

Order

No. 13/12/2021-PER/3338

The Governor of Goa is pleased to grant extension in service to Shri Raju Chotiyal, Driver, Goa Sadan, New Delhi beyond the date of his superannuation for a period of 01 year w.e.f. 01-03-2022 to 28-02-2023 or till the post is filled on regular basis whichever is earlier in public interest.

This order is issued with the concurrence of Finance Department vide U.O. No. 5560 dated 16-12-2021 and approval of the Cabinet in its LXth meeting held on 22-12-2021.

The extension is further subject to termination without assigning any reasons during the period of extension.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 24th December, 2021.

Order

No. 6/11/2020-PER/3382

Ref: 1) Order No. 6/11/2010-PER(part)/2209A dated 03-09-2021.

2) Order No. 6/11/2010-PER(part)/2417 dated 28-09-2021.

The following Senior Scale/Junior Scale Officers of Goa Civil Service, stands relieved with immediate effect to enable them to perform the time bound election related work on full time basis, in the office of Chief Electoral Officer till completion of entire process of General Election to Goa State Legislative Assembly, 2022:

Sr. No.	Name & designation of the Officer	Link Officer
1	2	3
1.	Shri Brijesh D. Manerkar, SLARO, Economic Development Corporation Limited with additional charge of Member Secretary, Goa Football Development Council.	Shri Shankar B. Gaonkar, Director (Administration), Sports Authority of Goa.
2.	Shri Tushar T. Halarnkar, Deputy Director, Department of Higher Education with additional charge of Under Secretary, Higher Education	Shri H. B. Khedekar, Deputy Director (Administration), Forest Department.

The Officers in Column No. 2 shall continue to draw their salary against the posts held by them prior to their appointment as Nodal Officers vide Orders read in the preamble.

The Link Officers shown in Column 3 shall hold the additional charge of the post of the relieving officers, during the ensuing Assembly Election, in addition to their own duties.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 30th December, 2021.

Order

No. 6/11/2019-PER/3385

On the recommendation of the Departmental Promotion Committee as conveyed by Goa Public Service Commission vide letter No. COM/II/11/42(1)/2020(Part file)/474 dated 30-12-2021, the Governor of Goa is pleased to promote the following Junior Scale Officers of Goa Civil Service to Senior Scale of the Goa Civil Service (Group 'A' Gazetted), under Rule 31 of Goa Civil Service Rules, 2016, in Level 11 of CCS (RP) Rules, 2016, with immediate effect:-

1. Smt. Maya Pednekar.
2. Dr. Geeta Suresh Nagvenkar.
3. Shri Clen Madeira.
4. Shri Rohit Ashok Kadam.
5. Shri Akshay Gurunath Potekar.
6. Smt. Neha Amey Naik Panvelkar.
7. Shri Kapil Chandrakant Phadte.
8. Shri Kedar Ashok Naik.
9. Shri Prasad Gurudas Volvoikar.
10. Shri Deepesh Narayan Priolkar.
11. Shri Ajay Ramchandra Gaude.
12. Smt. Sangeeta S. Naik.
13. Shri Pundalik V. Khorjuekar.
14. Shri Sudin A. Natu.
15. Shri Vishant S. Naik Gaunekar.
16. Shri Shashank V. Thakur.
17. Shri Tushar Halarnkar.
18. Shri Manuel P. Barreto.
19. Shri Shripad Arlekar.
20. Shri Chandresh C. Kunkalkar.
21. Shri Vishal C. Kundaikar.

The Officers shall exercise their option for fixation of pay in promotional grade in terms of F.R. 22(I)(a)(1), within a period of one month from the date of issue of the order. The option once exercised shall be final.

On promotion, the Officers shall continue to hold the post presently held by them, until further orders.

The above promotions shall be subject to the outcome of the Writ Petition No. 240/2021 filed in Hon'ble High Court of Bombay at Goa.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Joint Secretary (Personnel).
Porvorim, 30th December, 2021.



Department of Power
Office of the Chief Electrical Engineer

Order

No. CEE/Estt-31-25-88/GPSC/Part/2109

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa

Public Service Commission vide letter No. COM/II/11/16(1)/2017/471 dated 23-12-2021, the Government is pleased to promote the following Assistant Engineers (Elect.) to the post of Executive Engineers (Elect.), Group 'A' Gazetted in the Pay Matrix Level 11 on regular basis, with immediate effect and posted at the places shown below against their names, until further orders.

Sr. No.	Name of the Officer	Place of posting on promotion
1.	Shri Walter P. Souza	O/o the Executive Engineer (Training), CEE's office, Panaji.
2.	Shri Jayant Y. Prabhudessai	O/o the Executive Engineer, Elect., Division XVI, Margao.
3.	Shri Arun R. Patil	O/o the Executive Engineer, Elect., Division I, Panaji.
4.	Shri S.F. Sulebhavi	O/o the Executive Engineer, Elect., Division IV, Margao.

2. The promotee Officers shall be on probation for a period of two years. They should exercise an option for fixation of pay under F.R-22(1) (a) (i) within one month from the date of promotion.

3. This issues with the approval of the Government vide Inward No. 3019 dated 28-12-2021.

By order and in the name of the Governor of Goa.

Raghuvir G. Keni, Chief Electrical Engineer & ex officio Addl. Secretary.

Panaji, 30th December, 2021.

Order

No. CEE/Estt-31-25-88/GPSC/Part/2124

On the recommendation of the Departmental Promotion Committee as conveyed by the Goa Public Service Commission vide letter No. COM/II/11/16(1)/2012/475 dated 30-12-2021, the Government is pleased to promote the following Executive Engineers(Elect.) to the post of Superintending Engineers(Elect.), Group 'A' Gazetted in the Pay Matrix Level 12 on regular basis, with immediate effect and posted at the places shown below against their names, until further orders.:

Sr. No.	Name of the Officer	Place of posting on promotion
1.	Shri Stephen Fernandes	O/o the Superintending Engineer, Circle-II (N), Panaji.

1	2	3
2.	Shri Mayur Padmanabh Hede	Superintending Engineer (Planning), O/o the Chief Electrical Engineer, Panaji.
3.	Shri Shailesh Kashinath Naik Burye	Superintending Engineer (Comm.) O/o the Chief Electrical Engineer, Panaji.

2. They should exercise an option for fixation of pay under FR-22(1) (a) (i) within one month from the date of promotion.

3. This issues with the approval of the Government vide Inward No. 3034 dated 31-12-2021.

By order and in the name of the Governor of Goa.

Raghuvir G. Keni, Chief Electrical Engineer & ex officio Addl. Secretary.

Panaji, 31st December, 2021.

Department of Public Health

Order

No. 22/2/2020-I/PHD/2918

Read: 1) Memorandum No. 22/2/2020-I/PHD dated 26-03-2021.

2) Order No. 22/2/2020-I/PHD/2453 dated 17-11-2021.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/ /1/5/24(2)/2020/785 dated 27-11-2020, Government is pleased to appoint the following candidate at Sr. No. 6 to the post of Tutor in Institute of Nursing Education under Directorate of Health Services (Group "B" Non-Gazetted) on temporary basis in the level-6 of Pay Matrix of 7th Pay Commission (Pay Band-3 Rs. 9,300-34,800+Grade Pay of Rs. 4,200/- (pre-revised) with immediate effect and as per the terms and conditions contained in the Memorandum cited above:-

6. Ekta Venkat Karkal.

Accordingly, the Sr. No. 6 appearing in the order read at preamble shall be read as 7 so on.

The above candidate shall be on probation for a period of two years.

The character & antecedents of the candidate have been verified.

The above candidate has been declared medically fit by the Medical Board.

The appointment is made against the vacancies occurred due to creation of the posts vide Order No. 22/5/2013-I/PHD dated 30-05-2016 and subsequently revived vide order No. 22/7/2020-I/PHD635 dated 24-03-2021.

By order and in the name of the Governor of Goa.

Gautami Parmekar, Under Secretary (Health-II).

Porvorim, 24th December, 2021.

Order

No. 22/2/2020-I/PHD/2922

Read: 1) Memorandum No. 22/2/2020-I/PHD dated 23-08-2021.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/ /1/5/24(2)/2020/124 dated 16-07-2021, Government is pleased to appoint the following candidates to the post of Tutor in Institute of Nursing Education under Directorate of Health Services (Group "B" Non-Gazetted) on temporary basis in the level-6 of Pay Matrix of 7th Pay Commission (Pay Band-3 Rs. 9,300-34,800+Grade Pay of Rs. 4,200/- (pre-revised) with immediate effect and as per the terms and conditions contained in the Memorandum cited above:-

1. Joelita D'souza.

2. Bertilla Scarlet D'silva.

The above candidates shall be on probation for a period of two years.

The above candidates have been declared medically fit by the Medical board.

The character & antecedents of the above candidates have been verified by District Magistrate of South Goa District, Margao-Goa.

The appointment are made against the vacancies occurred due to creation of the posts vide Order No. 22/5/2013-I/PHD dated 30-05-2016 and subsequently revived vide order No. 22/7/2020-I/PHD635 dated 24-03-2021.

By order and in the name of the Governor of Goa.

Gautami Parmekar, Under Secretary (Health-II).

Porvorim, 24th December, 2021.

Order

No. 21/1/99-I/PHD/2925

Government is pleased to accept the notice of voluntary retirement dated 19-10-2021 tendered by Dr. Lizette F. C. D'Souza, Public Health Dentist, Primary Health Centre, Cansaulim under Directorate of Health Services under Rule 48-A of CCS (Pension) Rules, 1972 and to relieve her from the post of Public Health Dentist under Directorate of Health Services with effect from 19-01-2022 (a.n.).

By order and in the name of the Governor of Goa.

Gautami Parmekar, Under Secretary (Health).
Porvorim, 27th December, 2021.

◆◆◆
Department of Social Welfare
Directorate of Social Welfare

Order

No. 13/46/2019/Admn/SWD/Part/4939

Read: No. 13/46/2019/ADMN/SWD/PART/3018 dated 28-09-2021.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/44(1)/2019/192 dated 03-08-2021, Government is pleased to appoint Smt. Pradnya Naveen Desai to the post of Assistant Director (Welfare of the Differently Aabled), Group 'B' Gazetted, under Directorate of Social Welfare, Government of Goa, in the Level-7 of Pay Matrix [Pay Band-2 Rs. 9,300- 34,800+ Grade Pay Rs. 4,600/- (pre-revised)].

Smt. Pradnya Naveen Desai shall be on probation for a period of two years.

Smt. Pradnya Naveen Desai has been declared medically fit by the Medical Board and that the character & antecedents has been verified by the District Magistrate, South Goa, Margao vide letter dated 36/09/2021/MAG/245/Part VI/14064 dated 24-11-2021 and it is revealed that there is nothing adverse reported against her.

The expenditure towards Pay and Allowances of the Officer shall be debited to the Demand No. 57 under the Budget Head of Accounts "2235 — Social Security and Welfare, 02—Social Welfare, 101—Welfare of Handicapped, 02—Strengthening of the Department under Social Welfare Wing (Non-Plan), 01—Salaries".

By order and in the name of the Governor of Goa.

Gurudas P. Pilarnekar, Director & ex officio Addl. Secretary (SW).

Panaji, 16th December, 2021.

Order

No. 13/46/2019/Admn/SWD/Part/4938

Read: No. 13/46/2019/ADMN/SWD/PART/3017 dated 28-09-2021.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/44(1)/2019/192 dated 03-08-2021, Government is pleased to appoint Ms. Rashmi Narayan Rawal to the post of Assistant Director (Welfare of the Differently Aabled), Group 'B' Gazetted, under Directorate of Social Welfare, Government of Goa, in the Level-7 of Pay Matrix [Pay Band-2 Rs. 9,300- 34,800+ Grade Pay Rs. 4,600/- (pre-revised)].

Ms. Rashmi Narayan Rawal shall be on probation for a period of two years.

Ms. Rashmi Narayan Rawal has been declared medically fit by the Medical Board and that the character & antecedents has been verified by the District Magistrate, South Goa, Margao vide letter dated 36/09/2021/MAG/245/Part VII/M.O.60 dated 23-11-2021 and it is revealed that there is nothing adverse reported against her.

The expenditure towards Pay and Allowances of the Officer shall be debited to the Demand No. 57 under the Budget Head of Accounts "2235 — Social Security and Welfare, 02—Social Welfare, 001—Directions & Administration, 01—Directorate of Social Welfare (NP) 01—Salaries".

By order and in the name of the Governor of Goa.

Gurudas P. Pilarnekar, Director & ex officio Addl. Secretary (SW).

Panaji, 16th December, 2021.

◆◆◆
Department of Urban Development
(Municipal Administration)

Order

No. 27/1/84-DMA/Part/3537

Read: Order No. 13/7/2000/GAD(I) dated 30-08-2001.

The Departmental Selection Committee (DSC) and Departmental Promotion Committee (DPC) in respect of Group 'C' posts in the Department of Urban Development has been re-constituted as follows in view of Order dated 24th November, 2021 published in the Official Gazette Series II No. 36 dated 2nd December, 2021 issued by the Department

of Personnel, Secretariat-Porvorim:-

- | | |
|---|-------------|
| 1) Director of Urban Development | — Chairman. |
| 2) Additional Director of Urban Development | — Member. |
| 3) Deputy Director (Admn.) of Urban Development | — Member. |

Gurudas P. Pilarnekar, Director (Urban Development).

Panaji, 23rd December, 2021.

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